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WISCONSIN HISTORICAL PUBLICATIONS

COLLECTIONS, VOLUME XXVII

CONSTITUTIONAL SERIES, VOLUME II

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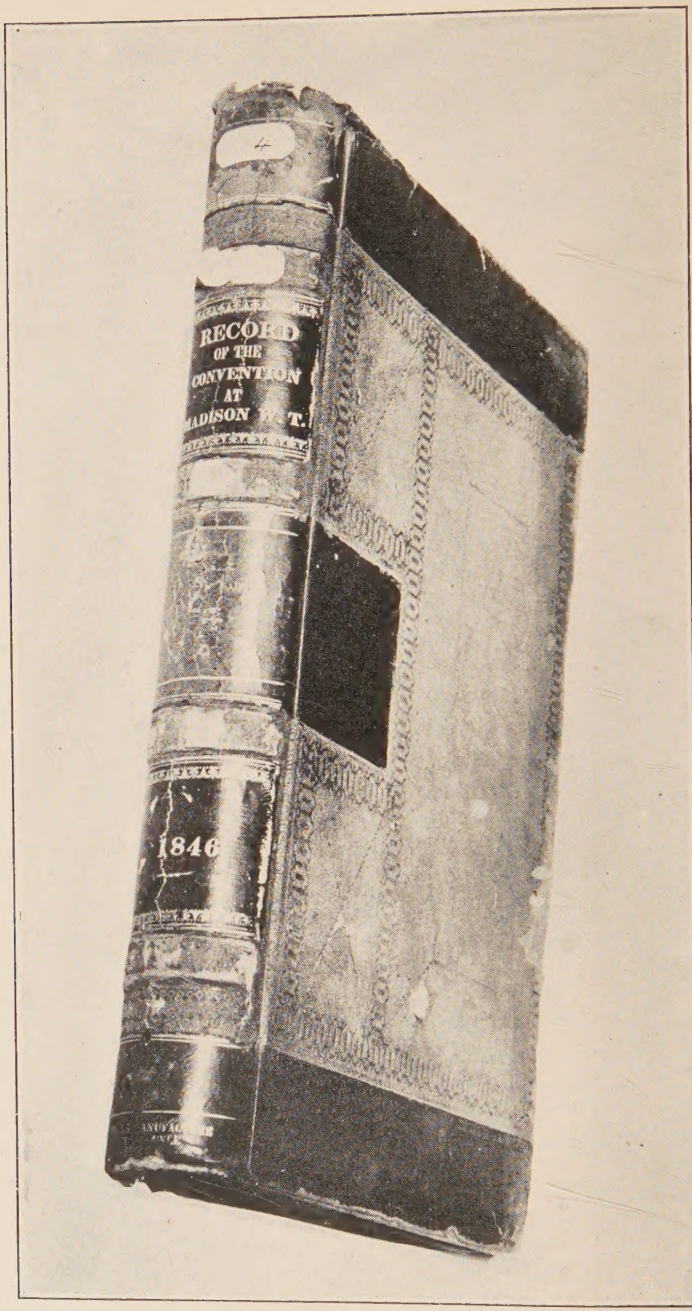

MANUSCRIPT JOURNAL OF THE CONVENTION OF 1846

Photographed from the original in the office of Secretary of State, Madison

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PUBLICATIONS OF THE STATE HISTORICAL SOCIETY
OF WISCONSIN

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COLLECTIONS, VOLUME XXVII
CONSTITUTIONAL SERIES, VOLUME II

THE CONVENTION OF 1846

EDITED BY
MILO M. QUAIFE
WISCONSIN HISTORICAL SOCIETY

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MADISON, 1919

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PREFACE

In the first volume of the series devoted to Wisconsin constitutional beginnings the popular discussion and official proceedings attendant upon the movement for statehood in 1845–46 were presented. The present volume deals with the first constitutional convention, held at Madison in the autumn of 1846. In the laborious sessions of this body the ideas with respect to a framework of government for the commonwealth about to come into being were reduced to tangible form. That the members of the convention performed their work in a spirit of sober earnestness will be questioned by none conversant with their proceedings. Nor will anyone question that the people of the territory were aware of their dependent political status and overwhelmingly desirous of entering upon statehood. Yet the convention's labors had a curious and for the time being a disappointing issue. Notwithstanding the electorate was predominantly Democratic and the Whig membership in the convention was small to the point of insignificance, the electorate repudiated the handiwork of its representatives by a decisive majority. The reasons for this are set forth in the historical introduction at the opening of the preceding volume. They find abundant illustration in the pages of the present volume.

Whatever their characteristics in other respects may have been, the constitutional fathers of Wisconsin were chary of devoting state funds to the printing of a record of their proceedings. The first convention preserved no record of its debates, while the official journal comprises a modest volume of 500 pages. The second convention hesitantly ordered, after its sessions had been in progress for some time, the making of a record of debates, with the proviso, however, that any member might direct the reporters to make no record of his contribu-

tion to the discussions. Journal and debates combined, therefore, run to but 600 pages of print. By way of contrast it may be noted that the debates alone of the Ohio convention of 1874 fill 3,600 pages of print; those of the Kentucky convention of 1890 run to 6,500 pages; journal and debates of the Pennsylvania convention of 1873 fill eleven volumes totaling 9,000 pages; while the official records of the New York conventions of 1867–68 and 1915 in each case fill twelve volumes containing 12,000 pages of print. That the parsimony of the fathers of Wisconsin was unwise seems scarcely to admit of question. Because of it administrators and scholars alike have been for seventy years compelled to content themselves with most imperfect sources of information concerning the origin of our state constitution. Now a painstaking effort has been made to reconstruct the debates and to assemble the other pertinent records pertaining to the birth of our commonwealth—with what degree of success, each reader may determine for himself. To a considerable extent the convention debates are of course gone forever. Yet, to the editor at least, the approximation toward their reconstruction offered in the present volume seems well worth the making. Although it necessarily falls far short of perfection, it assembles once for all the records that are extant and these afford a fair idea of the course and spirit of the debate which accompanied the forging of our constitution of 1846. Additional light will be shed by the reports from and editorials on the convention proceedings which considerations of space and practical convenience rather than of strict logic have led us to reserve for presentation in the succeeding volume of the series.

A few words of explanation may be in order concerning the physical arrangement of the volume. The official journal is printed in ten point solid type. Whenever a point is reached upon which a record of debate has been preserved, the presentation of the journal is interrupted to give place to the debate; this is distinguished by being set in eleven point leaded type. Since the debate has been recovered for the most part from the newspaper reports of the day (in large part from the Madison newspapers), it has been necessary, in order to

set this forth with all possible fullness, to repeat at times in one extract information already given in a preceding one. The extent of this, and the necessity for it, will be apparent to him who reads the proceedings; to make it evident to others is perhaps unnecessary here. Instead of printing the numerous roll calls of aye and nay votes throughout the journal (as they occur in the manuscript journal and in the printed one of 1847) these are presented in tabular form in Appendix I. This arrangement gives the record as truly as does the conventional one, while it conserves to a marked degree paper stock and printer's composition, and contributes, also, to the convenience of the user of the volume.

Acknowledgment is cheerfully made of continued obligation to Daisy Milward of the Society's editorial staff for painstaking preparation of the copy for the press and supervision during the processes of publication. The biographical sketches comprised in Appendix III are the work of Dr. Louise P. Kellogg, who also has compiled the index to the volume.

M. M. Quaife.

Madison, 1918.

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JOURNAL

OCTOBER 5, 1846

Pursuant to an act of the legislature of the territory of Wisconsin, entitled "An Act in relation to the formation of a state government in Wisconsin," approved January 31, 1846, a majority of the delegates elected to the convention to form a state constitution under the provisions of the said act assembled at the capitol at Madison, on the fifth day of October, 1846 at twelve o'clock, M.

William R. Smith, delegate from Iowa County, called the convention to order, and having called over the roll of the members elected, as returned by the secretary of the territory, the following gentlemen appeared and answered to their names and took their seats as such delegates, to wit:

BROWN COUNTY

David Agry
Henry S. Baird

COLUMBIA COUNTY

Jeremiah Drake
La Fayette Hill

DANE COUNTY

John Y. Smith
Abel Dunning
Benjamin Fuller
George B. Smith
Nathaniel F. Hyer
John M. Babcock

DODGE COUNTY

William M. Dennis
Stoddard Judd
Hiram Barber
Benjamin Granger

FOND DU LAC COUNTY

Warren Chase
Lorenzo Hazen
Moses S. Gibson

GRANT COUNTY

Thomas Cruson
Lorenzo Bevans
Neely Gray

GREEN COUNTY

Davis Bowen
Noah Phelps

IOWA COUNTY

Daniel M. Parkinson
Moses M. Strong
William I. Madden
N. E. Whiteside
Thomas James
Andrew Burnside

Thomas Jenkins
William R. Smith
Moses Meeker
Joshua White

JEFFERSON COUNTY

Patrick Rogan
Theodore Prentiss
Aaron Rankin
Elihu L. Atwood

MANITOWOC COUNTY

Evander M. Soper

MARQUETTE COUNTY

Samuel W. Beall

MILWAUKEE COUNTY

D. A. J. Upham
Francis Huebschmann
Wallace W. Graham
Garret Vliet
John Crawford
Asa Kinne
Garrett M. Fitzgerald
John Cooper

PORTAGE COUNTY

H. C. Goodrich

RACINE COUNTY

Frederick S. Lovell
Stephen O. Bennett
Nathaniel Dickinson
Chauncey Kellogg
Daniel Harkin
Marshall M. Strong
Edward G. Ryan
Elijah Steele
Haynes French
Chatfield H. Parsons
James H. Hall
Victor M. Willard

ROCK COUNTY

David Noggle
A. Hyatt Smith
S. P. Hammond
James Chamberlain
Joseph S. Pierce
George B. Hall
David L. Mills

SAUK COUNTY

William H. Clark

SHEBOYGAN COUNTY

David Giddings

WALWORTH COUNTY

Salmous Wakeley
Joseph Bowker
Charles M. Baker
John W. Boyd
William Bell
Lyman H. Seaver
Sewall Smith
Josiah Topping

WASHINGTON COUNTY

E. H. Janssen
Patrick Toland
C. J. Kern
Hopewell Coxe
J. F. Wilson
Bostwick O'Connor

WAUKESHA COUNTY

Pitts Ellis
George Reed
Elisha W. Edgerton
Rufus Parks
William R. Hesk
Barnes Babcock
Andrew E. Elmore
Charles Burchard

WINNEBAGO COUNTY

James Duane Doty

Whereupon, a quorum being in attendance, A. Hyatt Smith moved that Moses M. Strong be appointed president pro tempore, which was agreed to.

Mr. Crawford moved that William W. Treadway be appointed secretary pro tempore, which was agreed to.

Mr. Noggle moved that Hiram Taylor be appointed assistant secretary pro tempore, which was agreed to.

Mr. Dennis moved that John Starkweather be appointed sergeant at arms pro tempore, which was agreed to.

Mr. Bevans moved that William Kirkpatrick be appointed doorkeeper pro tempore, which was agreed to.

Mr. Graham moved that Henry Brown be appointed messenger pro tempore, which was agreed to.

Mr. Baker introduced the following resolution, which was read, to wit: "*Resolved,* That a committee of five members be appointed to examine the credentials of members and to report thereon at three o'clock, P. M."

Mr. Ryan moved to amend the said resolution by striking out the words "three o'clock, P. M.," and inserting "nine o'clock tomorrow" in lieu thereof, which was disagreed to.

The Chair announced the appointment of the following committee under said resolution, to wit: Messrs. Baker, Ryan, Meeker, Cruson, and Huebschmann.

The convention then adjourned until three o'clock, P. M.

THREE O'CLOCK, P. M.

A. Hyatt Smith introduced the following resolution, which was read, to wit: "*Resolved,* That the rules of the Council of the territory at the last session be adopted as the rules for the government of this convention so far as the same are applicable, until others are adopted." Mr. Judd moved that the said resolution be laid upon the table. Mr. Judd introduced the following resolution, which was read and adopted, to wit: "*Resolved,* That a committee of seven be appointed to draft rules for the government of this convention." The Chair announced the appointment of the following committee under said resolution, to wit: Messrs. Judd, Marshall M. Strong, Wm. R. Smith, Baker, Doty, Baird, and Elmore.

William R. Smith introduced the following resolution, which was read and adopted, to wit: "*Resolved,* That a committee of three be appointed to report the number of officers necessary for the government and business of this convention." The Chair announced the appointment of the following committee under said resolution, to wit: Messrs. Upham, Madden, and John Y. Smith.

Mr. Agry introduced the following resolution, which was read, to wit: "*Resolved,* That a committee of ____ be appointed by the Chair to ascertain the number of standing committees necessary for the business of the convention, to report the same with their respective designations and duties." Mr. Kellogg moved that the said resolution be laid upon the table, which was agreed to.

The committee to whom was referred the subject of examining and reporting upon the credentials of the delegates elected to this convention reported, "That as appears by the certificates and entries of the clerks of the boards of county commissioners and county supervisors of the respective counties, so far as the committee have been enabled to obtain and examine the same, all the delegates returned as elected by the secretary of the territory are entitled to seats as members of this convention except Rufus Parks, delegate from Waukesha County, who had not obtained his certificate of election from the clerk of the board of supervisors of his county." The report was accepted, and the committee discharged.

Mr. Elmore moved that Rufus Parks, a member elect from Waukesha County, who was reported by the committee as not having produced his credentials, be admitted to his seat, which was agreed to.

Mr. Baird introduced the following resolution, which was read and adopted, to wit: "*Resolved,* That a majority of the whole number of members present shall be necessary to the choice of officers of this convention."

Mr. Upham, from the committee appointed to report the number and description of officers necessary for the government of the convention, reported as follows, to wit: "The undersigned, a committee appointed to report the number of officers necessary to govern this convention, beg leave to report: That they have had the subject under consideration, and recommend the election of the following officers, to wit: One president of the convention, one secretary, one assistant secretary, one sergeant at arms, two doorkeepers, two messengers, and one fireman; and for carrying out the object of this report they recommend the adoption of the following resolution, to wit: '*Resolved,* That the convention elect as officers to govern their proceedings one president of the convention, one secretary, one assistant secretary, one sergeant at arms, two doorkeepers, two messengers, and one fireman.'" The report was accepted, and the committee discharged from the further consideration of the subject.

Mr. Baker moved to amend the report of the committee by striking out the word "two" before doorkeepers, and insert[ing] the word "one" in lieu thereof, which was disagreed to. The report of the committee was then adopted.

Mr. Baker moved an amendment—insert "one" before the word "doorkeepers," instead of "two." That as there were but two doors the sergeant at arms with one doorkeeper was sufficient to secure all the necessary attendance; and that as a matter of economy this convention should dispense with all unnecessary officers.

Mr. J. Y. Smith said it was desirable to encourage a spirit of economy, but that whenever an important question was to be taken the sergeant at arms, if any of the members were ab-

sent, would be obliged to go through the streets till he had found the absentees. The law of the last session of the territorial legislature did not deprive the convention of the privilege of electing such officers as were necessary for the successful prosecution of the business before the convention.

Mr. Kellogg thought the law was binding, and that it provided for all necessary officers. He could not do otherwise than abide by it.

The amendment was lost.—*Democrat,* Oct. 10, 1846.

Mr. Baker moved to amend the resolution by striking out the word "two" before "doorkeepers," and inserting "one." The law of the territory under which they had met provided for but one doorkeeper, and that law in his opinion should govern.

Mr. John Y. Smith said the law was before the committee at the time of drafting the resolution, and they had come to the conclusion that no law of the territorial legislature could so far bind the convention as to compel them to employ so few officers that the necessary business of the convention could not be properly done. There were two doors to the hall, at the opposite sides, and it would be impossible for one man to attend to them both. It might be said that the sergeant at arms could perform the duty of doorkeeper, but this he could not do, since it might often so happen that a call of the convention would be demanded, and that officer be sent after the absentees, when the door would be left unattended.

Mr. Kellogg was of opinion that the law of the legislature was binding on the convention, and he should therefore vote to strike out.

The question was put and lost.

The resolution as reported was then adopted.—*Argus,* Oct. 6, 1846.

Mr. Elmore moved that the convention do now proceed to the election of a president of this convention by ballot. Mr. Ryan moved that the convention adjourn, which was disagreed to.

W. R. Smith thought the action premature—that they should wait the action of the committee.

Mr. Ryan had an objection. Most of the members of the convention had for the first time met. He was a stranger to many members. The convention should pause and deliberate, and not proceed with such party steps. It was an important point who should preside over the deliberations of this body. If this resolution be adopted we might be obliged to vote before we had a chance to become acquainted so as to determine who is the most popular person to place in that station. He did not wish to see the old Democratic rule violated. The ruling party, according to custom, selected the officers of all legislative bodies. There was nothing to be gained by discarding this rule but many reasons why it should be sustained. The interests of the convention required time, and [he believed] that an adjournment would effect much good. By adopting this motion we abandon an old and proper usage. He moved to adjourn to ten o'clock tomorrow. Motion rejected.

Mr. Judd was in favor of waiting for the report of the committee, but was not willing to adjourn. The old rule of not delaying till tomorrow what can be done today was applicable to this convention. He was not one of those who wanted anyone to choose a man for him to vote for. He was willing to proceed immediately to the election. The candidates were all known.

Mr. Lovell moved to lay the matter on the table. Lost.—*Democrat,* Oct. 10, 1846.

The question then recurred on the motion of Mr. Elmore and was decided in the affirmative.

The President stated that the question was on the original motion of Mr. Elmore.

Mr. Marshall M. Strong said that at the present time reform prevailed. That his own experience in '38 and '39 proved to the convention the practicability of caucus regulations. That from Monday to Friday the time was lost in fruitless ballotings. That the caucus system had been adopted by Congress and by the New York convention, and that thereby much time had been saved. Suppose that on the final ballot it appears that one Democratic candidate receives forty votes and his suc-

cessful competitor forty-six, six of which are cast by Whigs—the will of the party is defeated. It is a matter of much moment to the people whether the germ of the Wisconsin constitution be laid in Democratic measures. We were chosen on party grounds—chosen to represent the principles of our party. We abandon the principles of party by this procedure.

Mr. Baird was sorry to see the question of politics brought into the convention. He was a representative of the people and hoped that politics would be discarded at once. He would like to know if this rule in Democratic caucuses to select officers was carrying out the will of the people. He was from a Democratic county, he was proud to say. He went for measures whether from a Whig or Democrat. He was sorry to hear such doctrines. He called upon them not as the representatives of the Democracy, old or young, but as the representatives of the people, to remember that they were to form a constitution for the whole people. He called upon gentlemen not to waste time. The majority could not quarrel with the few Whigs who were here; and if they had feuds among themselves, they should have been settled before coming here. He cared not who the president was if he was qualified, faithful, and honest. No man had been named as yet for that high station whom he did not believe qualified and [whom he was not] willing to see in the chair.

Mr. Ryan was the first to introduce politics into the discussion, and he supposed he must bear the censure of the gentleman from Brown. Every member here was elected on strict party politics. He (Mr. Baird) represented the people of Brown on Whig principles. We represent the people of Racine on Democratic principles. He never saw such an animal as a representative who discarded his political principles under any circumstances. He knew nothing more sacred than his party principles. Was he not to represent his politics in convention? Was he not sent to incorporate those politics into the constitution? He was not satisfied with the election of any man. It was a matter of the first importance who presided over the deliberations of this body. We were sent here as Democrats and Whigs to regulate all preliminary considera-

tions as well as to frame a constitution. The Whigs did not expect to elect a Whig president. But they had the power by the division that might exist in the Democratic ranks to elect whom they pleased. Ought they to have the choice? The Democrats had four candidates, and there were Whigs enough to decide who should be the president. He did not mince matters; he wished the motion lost for the purpose of going into caucus to allow the Democratic members to select who should be elected to this station. He came here to make a constitution on the political principles of himself and his people. He had gone so far to test whether the good old Democratic rule should be sustained, and he therefore moved to adjourn. Lost—54 to 37.

The original motion was then put and carried.—*Democrat*, Oct. 10, 1846.

Mr. Marshall M. Strong: In 1838 the Council of Wisconsin went into a ballot without having first consulted in caucus on the proper course to be pursued or the man to be selected. Party politics was then unknown. The result was that the Council voted in the dark and at random for a whole week before a choice was effected. A perfect waste of time was the result.

Such has been the case with all other bodies with which he had been acquainted, and the holding of caucuses had become the practice of both political parties in all political bodies. A different course would enable the Whigs to foist upon the Democratic party a man whom they did not prefer, or to defeat any election by voting for a third man. If an election was then gone into he did not believe there would be a choice, and the necessity of an adjournment would become apparent. Nearly all if not all of the members had been chosen on party grounds and he believed that the party principles ought to be carried out by them; one of the greatest of these was to be effected by the election of the president, while a different course might be to abandon the principles on which they had been elected. If there were family feuds among Democrats, he wanted them all settled among themselves. These were some

of the reasons that would induce him to vote against proceeding to the ballot at that time.

Mr. Baird did not belong to the same political party with the gentleman who had just taken his seat, though he had been elected from a county where the Democrats were the dominant party. Therefore he was on this floor representing no particular party or set of men, and to promote the interest of those constituents and do the business of the country would be his object aim while here. Sorry he was to see at this early day the apple of discord, party politics, thrown into the midst of the convention, and he hoped it would be met at once and driven from the hall. The interests of the people would be best served by proceeding at once to the election of a president, without the dictation or delay of a caucus, and that course he called on gentlemen to pursue. If there be feuds among Democrats—family quarrels—let them settle them at home or out of this place. To elect a Whig was out of the question, and for one he could say that among the men spoken of by Democrats he would be content with one they might choose, and he was now prepared to vote for the man he preferred without further loss of time.

Mr. Ryan was the man who first broached the subject of party politics in this hall, and as such he took to himself the greater share of the lashing of the gentleman from Brown. He came here to represent the people of Racine as much as the gentleman did those of Brown, but that county had elected him on account of his political predilections, and they expected him to carry them out. He could not believe that such a nondescript as a no-party-man could be found at this day. Every man belonged to some political party. For himself he was free to confess that he belonged to the great Democratic family, and that he came here to carry out the measures of that party. Much depended on the man placed in the presidential chair; the appointment and character of the committees depended entirely on him; for that reason he did care for the man. He appealed to Democrats to say if they were prepared to leave it to the Whigs to say who should be the presiding officer of the convention. For one he wanted to pursue the old method

of going into a caucus and making a selection of the man whom Democrats preferred. Equally old and wise with the saying quoted by the gentleman from Dodge was the remark of Mr. Jefferson that "majorities should rule." The territory has declared for the Democrats by a decided majority, and he wanted to see the principles of that party carried into the constitution they were about to frame. Any other in his opinion should be rejected. He closed by again moving that the convention do adjourn to ten o'clock tomorrow morning.—*Argus*, Oct. 6, 1846.

The Chair appointed Messrs. Giddings and Noggle tellers to receive and canvass the votes. The ballots were then taken and counted when the tellers reported the whole number of votes given to be 93, of which D. A. J. Upham received 33; Marshall M. Strong 26; Moses M. Strong 20; William R. Smith 10; Richard R. Smith 1; Stoddard Judd 1; M. M. Strong 1; Blank 1.

No person having received a majority of all the votes given, the Chair declared that no choice had been made. The convention then proceeded to a second ballot, and the votes having been taken and counted, the tellers reported the whole number of votes given to be 93, of which D. A. J. Upham received 44; Marshall M. Strong 24; Moses M. Strong 21; William R. Smith 2; Moses Meeker 1; Blank 1.

No person having received a majority of all the votes given, the Chair declared that no choice had been made. Mr. Ryan moved that the convention adjourn, which was disagreed to. The convention then proceeded to a third ballot, and the votes having been taken and counted, the tellers reported the whole number of votes given to be 93, of which D. A. J. Upham received 43; Marshall M. Strong 25; Moses M. Strong 20; Moses Meeker 2; William R. Smith 1; Blank 2.

No person having received a majority of all the votes given, the Chair declared that no choice had been made. Mr. Dennis moved that the convention adjourn, which was disagreed to. The convention then proceeded to a fourth ballot, and the votes having been taken and counted, the tellers reported the whole number of votes given to be 93, of which D. A. J. Upham received 52; Moses M. Strong 19; Marshall M. Strong 17; Moses Meeker 2; William R. Smith 2; Blank 1.

D. A. J. Upham having received a majority of the whole number of votes upon the fourth ballot was declared duly elected president of the convention. Mr. Dennis moved that a committee of two be appointed to wait on the President-elect to his seat, which was agreed to. The Chair announced the appointment of Messrs. Dennis and A. Hyatt Smith as such committee. The President, after being conducted to his seat, rose and addressed the convention as follows:

Gentlemen of the Convention: It is with deep feelings and sensibility that I tender you my thanks for the honor you have conferred

in electing me to preside over your deliberations. It is on no ordinary occasion that we are assembled. We have before us the responsibility of framing the organic law of the future state of Wisconsin. Should we not approach the subject, then, with calmness and deliberation, with a disposition to harmonize, and a fixed determination to exert our best energies to frame such a work as shall be correct in principle and at the same time acceptable to the people. Constitutional law, like every other science, is progressive. That which fifty years ago was deemed wise by the best of men is now behind the age; within that period the oldest states in the Union have repeatedly found it necessary to change and modify their constitutions. We have their errors and their experience before us and it is our duty to profit by them. The greatest good to the greatest numbers should be the object in local legislation; and, as has been said by the great statesman of the age, "the blessings of government, like the dews of heaven, should be dispensed alike to the rich and poor." But this cannot be secured if legislatures are permitted to grant exclusive privileges by incorporating moneyed institutions, lessening the risks of the capitalist, and increasing his means of accumulating wealth which must come directly or indirectly from the labor and industry of the country. On most of the important principles and provisions to be incorporated in the constitution of Wisconsin, I presume, a large majority of this convention are united in feeling and opinion, and it is in harmonizing and arranging the details for carrying out these principles that we shall be called upon to exercise the greatest patience and forbearance.

Gentlemen, it is some years since I have had any experience in the rules and parliamentary law that govern legislative bodies. In this respect I feel that I shall not do you justice as your presiding officer, and it is only by relying on the assistance of friends who have more recently and longer filled seats in our legislative halls that I can expect to succeed in performing the duties you have imposed upon me. That I shall often err is certain, for that is human, and this pledge only can I give you—that my errors will be those of judgment and not of feeling and intention in arriving at correct decisions; and for these I shall ask, and confidently expect on your part, a liberal and kind indulgence.

On motion of Moses M. Strong the convention adjourned.

Mr. Elmore moved an adjournment. Withdrawn that Mr. Judd might inquire who were the committee on rules. He wished to meet the committee at nine o'clock tomorrow morning. He did not like to work at night. Thought he could accomplish enough in the daytime. The motion to adjourn till ten o'clock tomorrow was renewed and carried.—*Democrat,* Oct. 10, 1846.

TUESDAY, OCTOBER 6, 1846

The journal of yesterday was read and corrected.

Mr. Gray introduced the following resolution, which was read and on his motion laid on the table until tomorrow, to wit: "*Resolved,* That a committee of three be appointed with power to receive proposals and contract with [the] lowest and best bidder to do the incidental printing, and also for printing the journal of this convention, good and sufficient security being required for the faithful performance thereof."

The reasons for this manner of procuring the printing of the convention were evident on the face. It was the most expeditious and practicable, and should be in practice. Other legislative bodies have adopted this method, and he [Mr. Gray] thought much time and expense would be saved thereby.—*Democrat,* Oct. 10, 1846.

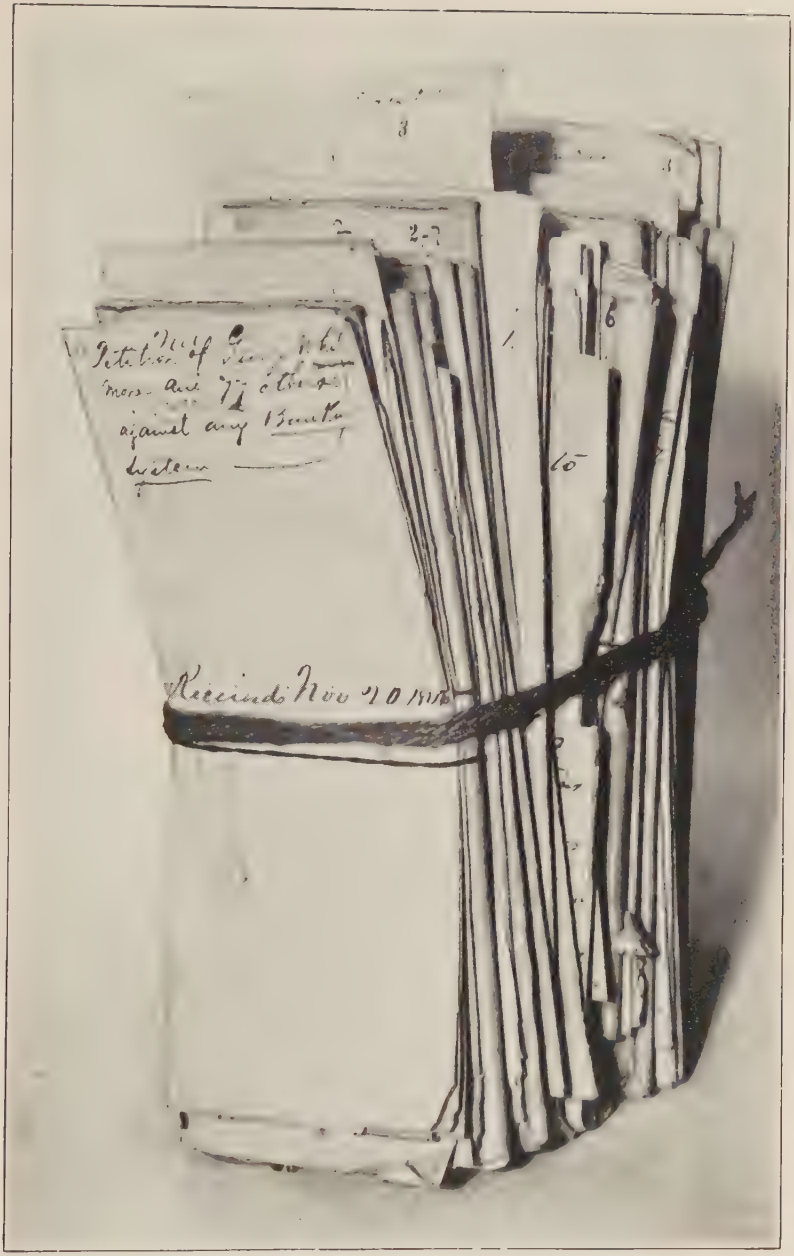
Mr. Dennis moved that the convention now proceed to the election of officers for the present session, commencing at the office of secretary, which was agreed to.

Mr. Dennis suggested the laying aside of the resolution till after the election of the officers of the convention.

Mr. Gray was not particular as to time; but when the subject of printing came up for consideration he should adhere to his resolution; and moved to lay it on the table.—*Democrat,* Oct. 10, 1846.

Mr. Dennis was of opinion that this resolution might with propriety be laid aside for the present and taken up at some future time, when the organization of the convention should be more complete. To this Mr. Gray assented, with the understanding that it should be taken up on the first opportunity. The resolution was therefore laid on the table.—*Express,* Oct. 12, 1846.

Moses M. Strong nominated La Fayette Kellogg for the office of secretary. Mr. Crawford nominated Wm. W. Treadway for the same office. The President appointed Messrs. Dennis and Moses M. Strong tellers to receive and canvass the votes. And the votes having been



COMMITTEE REPORTS OF THE CONVENTION OF 1846

Photographed from the originals in the office of Secretary of State, Madison

taken and counted the tellers appointed for that purpose reported that the whole number of votes cast for the said office was 92. Necessary to a choice 47—of which La Fayette Kellogg received 48 votes; Wm. W. Treadway received 41 votes; Hiram Taylor received 1 vote; and Blank 2 votes.

La Fayette Kellogg, having received a majority of all the votes given, was declared by the President duly elected to the office of secretary of the convention for the present session.

Moses M. Strong then moved that the remaining officers be elected viva voce, which was agreed to.

Mr. Noggle nominated Hiram Taylor for the office of assistant secretary. And the question having been put on the said nomination, it was decided in the affirmative.

Moses M. Strong nominated Edward Hayes for the office of sergeant at arms. Mr. Dennis nominated John Starkweather for the same office. The question was first put on the nomination of Mr. Hayes and was decided in the negative. And a division having been called for, there were 32 in the affirmative and 50 in the negative. The question was then put on the nomination of John Starkweather and was decided in the affirmative.

Moses M. Strong then nominated Edward Hayes for the office of doorkeeper. And the question having been put on the said nomination, it was decided in the affirmative.

George B. Smith then nominated R. T. Davis for the office of doorkeeper. And the question having been put on said nomination, it was decided in the negative.

Mr. Ryan nominated Wm. Kirkpatrick for the office of doorkeeper. And the question having been put on said nomination, it was decided in the affirmative.

Mr. Crawford nominated Henry Brown for the office of messenger. And the question having been put on said nomination, it was decided in the affirmative.

Moses M. Strong nominated Henry Starks for the office of messenger. And the question having been put on said nomination, it was decided in the affirmative.

Mr. Baker nominated Elisha Isham for the office of fireman. And the question having been put on said nomination, it was decided in the affirmative.

Mr. Baker introduced the following resolution, which was adopted, to wit: "*Resolved,* That the secretary be directed to invite the resident clergymen of Madison to attend alternately and open the convention each morning with prayer."

Moses M. Strong introduced the following resolution, which was read and on his motion laid on the table, to wit: "*Resolved,* That the secretary prepare and cause to be printed an alphabetical list of the members of this convention."

William R. Smith introduced the following resolution: "*Resolved,* That the following select committees, to consist of seven members each,

be raised for the purpose of having submitted to them, respectively, the several following subjects for the consideration of the convention.

1. The subject of legislation.
2. The subject of the judiciary.
3. The subject of the executive department.
4. The subject of election and suffrage.
5. The subject of a bill of rights.
6. The subject of corporations and privileges.
7. The subject of official appointments and tenure.
8. The subject of learning, education, and science.
9. The subject of the militia.
10. The subject of currency and finance.
11. The subject of public highways by land and water and the eminent domain of the state.
12. The subject of internal improvement.
13. The subject of constitutional amendments."

The resolution introduced by Mr. Agry on yesterday having been first withdrawn, the resolution above named was read and on motion of William R. Smith laid on the table, and 150 copies thereof ordered to be printed.

George B. Smith moved that the convention now proceed to the election of a printer. Moses M. Strong moved to lay said motion on the table, which was decided in the affirmative. And a division having been called for, there were 44 in the affirmative, noes not counted.

Mr. George B. Smith took occasion to offer a resolution, "*Resolved,* That the convention proceed to elect a printer," which was upon motion of Moses M. Strong laid upon the table by a vote of about two-thirds of the members. Mr. Smith's exceeding anxiety to thrust forward the claims of his special favorite to that portion of the spoils raised quite a din about the ears of the gentleman.—*Express,* Oct. 12, 1846.

Mr. Gray moved that the resolution introduced by him this morning relative to printing be now taken up, which was agreed to. Mr. Ryan moved to amend the said resolution by striking out the words "and also for printing the journal of this convention," and pending the question on said amendment, on motion of Mr. Gray the said resolution and amendment were laid on the table until tomorrow at ten o'clock A. M.

Mr. Gray then called up his resolution to contract with the lowest bidder for the necessary printing, and his motion prevailed.

Upon a second reading of the resolution Mr. Ryan moved that "and the journal" be stricken, and confine its operation to the incidental printing exclusively.

Marshall M. Strong thought that although there might be a necessity for having the incidental printing of the convention done at Madison there existed no good reason why the journal of its proceedings could not as well be printed elsewhere, as it could in all probability be done cheaper and better. Mr. Strong was opposed by Mr. Dennis, who was in favor of giving the whole together, as the incidental printing would be a trifle, scarcely worth accepting, whereas the printing of the journal would cost some thousands; he was in favor of giving the fat job to the person who should do the lean ones, and to save unnecessary discussion upon the matter moved that it lie upon the table, to be brought up again tomorrow at ten o'clock, which motion prevailed.—*Express,* Oct. 12, 1846.

Moses M. Strong introduced the following resolution: "*Resolved,* That this convention will adjourn without day on Monday the twenty-sixth of October instant," which was read and on his motion laid on the table.

Mr. Parsons introduced the following resolution, which was adopted, to wit: "*Resolved,* That the members of this convention who shall hereafter introduce written resolutions place their names and residence and the county they represent on the same."

On motion of Mr. Baker the convention adjourned until three o'clock P. M.

Mr. Strong spoke in favor of this resolution. He was aware that it might somewhat surprise some that this subject should be introduced at this early stage of the proceedings and he merely wished to call the attention of the convention to it. He was of the opinion that with a due regard to dispatch and proper diligence in carrying on the proceedings the time allowed by this resolution would amply suffice for the prosecution of their duties. The people in his section of the territory were of this opinion; and he believed the people of the territory, generally, were opposed to a protracted session of this body, involving as it would such a large expenditure of the public money. If the members would therefore apply themselves diligently upon the business upon which they were sent here, all the

business could be concluded in three weeks, and a useless waste of time and money be thereby prevented.

The resolution was laid upon the table, to be called up by Mr. Strong when he deemed necessary.

Mr. Parsons of Racine offered the following resolution: "*Resolved* That members hereafter introducing written resolutions shall append to the same their name and the county they represent," which was adopted.

Mr. Chase inquired if the report of the committee on rules and regulations was not in order; and was answered by Mr. Judd, chairman of the committee.

Mr. Judd said the committee had been allowed so short a time that they had been unable to finish a complete report upon the matters they had under consideration, but would do so at the earliest possible period.

Mr. Ryan asked when the committee would probably be prepared to finish their report.

Mr. Judd replied that they would most probably do so at the next meeting of the convention, at 3 P. M.

Mr. Baker moved an adjournment until 2 [3] P. M. which was carried, and the convention adjourned.—*Express,* Oct. 12, 1846.

THREE O'CLOCK, P. M.

Mr. Steele introduced the following resolution to wit: "*Resolved,* That the resolution offered by the gentleman from Iowa for the appointing of standing committees be taken up from the table and referred to a select committee of five, to be appointed by the president of the convention, to report upon the same and to suggest and make such alterations or additions in the number and duties of the standing committees as to them shall seem proper, and that they be instructed to report tomorrow morning, immediately after the opening of the convention."

Mr. Agry moved that said resolution be laid upon the table, which was agreed to. And a division having been called for, there were 45 in the affirmative and 27 in the negative.

Mr. Steele thought the resolution of Mr. Smith was calculated to expedite the business of the convention at least one week and consequently save a considerable expenditure of the peo-

ple's money—it was this opinion alone that influenced him in offering the resolution.

Upon a call for the reading of the previous resolution, the Chairman stated that, it being out of the possession of the house, in the hands of the printer, such could not be done.

Mr. Ryan knew not how the paper could be out of the possession of the house while in the hands of the printer any more than while the same was in the hands of the secretary.

The Chair took occasion to inform the gentleman that the resolution was not literally out of the possession of the house, although constructively so.

Mr. Agry moved that Mr. Steele's resolution lie upon the table until the previous resolution was received from the printer and read; which motion, after a few characteristic remarks from Mr. Ryan, prevailed.—*Express,* Oct. 12, 1846.

Mr. Judd, from the committee appointed to report rules and regulations for the government of the proceedings of this convention, made the following report:

"The committee appointed to report rules and regulations for the government of the proceedings of this convention respectfully report the following rules:

"First. The president shall take the chair at the hour to which the convention shall have adjourned, shall immediately call the members to order, and on the appearance of a quorum shall cause the journal of the preceding day to be read and corrected.

"Second. The president shall preserve order and decorum and decide questions of order subject to an appeal to the convention. He shall have the right to order any member to perform the duties of the chair; but such substitution shall not exceed beyond an adjournment. He shall also appoint all committees unless otherwise directed by the convention.

"Third. The president shall be required to vote on all questions, and on calling the ayes and nays his name shall be called in alphabetical order as Mr. President.

"Fourth. After the journal has been read and corrected the order of business shall be as follows, viz:

1. The presentation of petitions.
2. The reports of committees.
3. Resolutions.

Provided, That [no] resolution shall be acted upon on the same day upon which it is presented.

4. Unfinished business of the preceding day.

"Fifth. The rules observed in convention shall govern as far as practicable the proceedings in committee of the whole, except that a

member may speak oftener than twice on the same subject, and that a call for the ayes and nays, or for the previous question, cannot be made. Amendments made in the committee of the whole shall be entered on a separate piece of paper and so reported to the convention by the chairman, standing in his place; which amendments shall not be read by the president unless required by one or more of the members.

"Sixth. The previous question shall always be in order in convention if seconded by a majority, and until it is decided all amendments and debates shall be precluded. The question shall be put in this form: 'Shall the main question be now put?' And prior to the main question being put, a call of the convention shall be in order. All incidental questions of order arising after a motion is made for the previous question and pending such motion shall be decided, whether on appeal or otherwise, without debate.

"Seventh. A motion to adjourn shall always be in order and shall be decided without debate.

"Eighth. No member shall speak more than twice to the same question without leave, nor more than once until every other member rising to speak shall have spoken.

"Ninth. When a motion or question has been once put and carried in the affirmative or negative, it shall be in order for any member who voted in the majority or when the convention is equally divided for a member who voted in the negative to move for a reconsideration thereof on the same or the succeeding day; and when the motion be [to] reconsider is not made on the same or succeeding day, at least two days' notice of intention to make such motion shall be given.

"Tenth. When a question is under debate no motion shall be received unless to adjourn, to lay on the table, for the previous question, to postpone to a day certain, to commit, to amend, or to postpone indefinitely; and these several motions shall have precedence in the order in which they stand arranged. A motion to postpone to a day certain, to commit, or to postpone indefinitely being decided, shall not be again allowed on the same day and at the same stage of the proposition.

"Eleventh. Whenever any member is called to order, he shall sit down until it is determined whether he is in order or not; and after such determination he shall be permitted to proceed in order.

"Twelfth. The ayes and noes may be called upon any question at the request of any eight members of the convention.

"Thirteenth. Fifteen or one-fifth of the members present may make a call of the convention and require absent members to be sent for, but a call of the convention cannot be made after the voting has commenced; and, the call of the convention being ordered and the absentees noted, the doors shall be closed and no member permitted to leave the room until the report of the sergeant at arms be received and acted upon or further proceedings in the call be suspended.

"Fourteenth. A member may call for a division of the convention upon any question, either before or after a decision by the president.

"Fifteenth. The standing hour for the daily meeting of the con-

vention shall be ten o'clock in the morning, until the convention otherwise direct.

"Sixteenth. The rules of parliamentary practice comprised in Jefferson's manual shall govern the convention in all cases to which they are applicable and in which they are not inconsistent with these rules and the orders of the convention.

"Seventeenth. No standing rules or order of the convention shall be changed or rescinded without one day's previous notice being given of the motion therefor. Nor shall they be altered, changed, rescinded, or suspended, unless upon the vote of two-thirds of the members present."

The report of the committee was accepted and the committee discharged from the further consideration of the subject. The question then recurred on the adoption of the report of the committee, when Moses M. Strong called for a division of the question. The President decided that the question was divisible and would be put on the adoption of the several rules separately.

And the question having been put separately on the adoption of the first, second, third, and fourth rules reported by the committee, it was decided in the affirmative.

And the question having been put on the adoption of the fifth rule reported by the said committee, it was decided in the negative.

Mr. Judd, chairman of the committee on rules and regulations, being in order, proceeded to report the result of the labors of the committee.

The rules and regulations contained in the report of the committee were principally composed of those of the Council, with a number of revisions and innovations which somewhat displeased that portion of the Democratic members comprising the Old Hunkers and gave rise to some considerable debate between that portion of the party and those significantly entitled the progressive branch of the Democracy or Barnburners.

The rule to abolish committees of the whole and consider all business transacted by the convention as in the convention called out Moses M. Strong, apparently the champion of the Old Hunker cause in the convention, and he gave his opinions against the practical utility of such a rule. All the experience he had had in legislative proceedings confirmed him in the belief that the abolishment of committees of the whole would tend directly to protract the session of the convention, and he should therefore move this rule be stricken out.

Mr. Judd spoke in support of the rule and said his legislative experience led him to believe that the adoption of the rule would tend directly to save time to the convention by preventing useless expenditure of time in discussing questions in committee of the whole, when they can, if voted down there, be again brought up before the body when in convention. He did not see how the member could be serious in offering his resolution of this morning to limit the session of the convention to three weeks, when his opposition to this rule showed an evident disposition to protract it far beyond that period. He hoped the rule would be adopted.

Marshall M. Strong spoke in opposition to the adoption of the rule. He was the only one in the committee who had opposed its insertion, and he did so because he was of opinion that its utility was very questionable. It was a novelty in legislative proceedings; his experience in such matters favored the adoption of committees of the whole.

Here followed a short but somewhat exciting debate upon the question, Moses M. Strong, Wm. R. Smith, Judd, Chase, and Ryan taking part in the discussion, most of them reciting their experience in legislative proceedings, and Mr. Ryan prefacing his remarks with the consolation that he was without legislative experience and was somewhat disposed to appeal to the risible instead of the deliberative faculties of the members. He occupied the time of the convention but a few minutes, for which I think he should have received their thanks.

The amendment offered by Moses M. Strong to strike out a portion of the rule was withdrawn, and upon the question of the adoption of the rule as it stood it was ordered to be stricken out. A decided victory for the Ancient Democracy!—*Express*, Oct. 12, 1846.

The question was then put on the adoption of the sixth and seventh rules reported as above and was decided in the affirmative.

William R. Smith moved to fill the blank in the eighth rule by inserting the words "one hour." Mr. Judd moved to fill the blank with the words "forty-five minutes." Mr. Baker moved to fill the blank with the words "thirty minutes." Moses M. Strong moved to fill the blank with the words "two hours." Mr. Crawford moved to fill the blank with the words "six hours." The President stated that the question would first be put on the longest time. And having been put on filling

the blank with "six hours," it was decided in the negative. And a division having been called for, there were 26 in the affirmative and 42 in the negative.

Moses M. Strong moved to amend the eighth rule by striking out all after the word "spoken" in the third line, which was decided in the affirmative. Said rule, as amended, was then adopted.

The eighth rule, being read, was as follows: "No member shall speak more than twice on the same question without leave nor more than once until every other member rising to speak shall have spoken. Nor shall any member speak longer than ———— upon the same question at any one time."

Mr. Moses M. Strong moved to fill the blank with two hours, and said he was opposed to having any limit to the time members should be allowed to speak; and as he could not believe that any man would occupy the time he had named, he considered it equivalent to having no limit at all.

Mr. Crawford moved to fill the blank with six hours, which certainly would give all the time that could be asked to make speeches in. The motion was lost, ayes 26 noes 42.

Mr. Gray was opposed to the principal of gagging members and therefore would move to strike out the clause.

Mr. Judd was in favor of the rule. Such a rule had been adopted by the Congress of the United States, and had been found to work well, and had received the approbation of both political parties. With such a rule there can be no harm done, in his opinion, as one hour would give ample time to any member to express his sentiments on whatever questions may arise. The necessity of the rule may be discovered when it cannot be adopted without a reflection on the conduct of some member, and then it will be too late. The better course would, in his opinion, be to adopt it now, when it would reflect on no man.

Mr. Ryan denied that the length of time a man was speaking was the cause of weariness to members, but on the contrary weariness depended entirely on what a man had to say. An audience could just as well listen to one man for any given time as to forty men, and they would be just as likely to be bored with the forty as with the one. It all depended on the matter. He denied that the rule had been adopted by Congress. The Sen-

ate have never had a gag rule. Such a rule he would concede had been adopted in the bear garden, or House of Representatives of Congress, but nowhere else. And even there it had not worked well, either for the speakers, the hearers, or the public. Frequently, in reading the reports of speeches made in that body, he cursed the hammer of the speaker which cut off an argument in its very midst, while it not unfrequently happened that a speech of five minutes, made against time, where the speaker had nothing to say was a perfect bore to the reader. He would suggest that the rule had better read so as to order a member to stop when he has nothing more to say.

Mr. Moses M. Strong denied that members would speak so long as to weary the patience of members, and he much doubted whether anyone would exceed the time of one hour, but he wanted no limit.

The motion to strike out prevailed.—*Argus,* Oct. 13, 1846.

The question was then put, separately, on the adoption of the ninth, tenth, and eleventh rules, as reported above, and was decided in the affirmative.

Moses M. Strong moved to amend the twelfth rule by striking out the word "eight" in the second line, which was decided in the affirmative. And a division having been called for, there were 41 in the affirmative and 37 in the negative.

Moses M. Strong moved to fill the blank with the word "twenty." Mr. Gray moved to fill the blank with the word "seven." Mr. Judd moved to fill the blank with the word "ten." Mr. Ryan moved to fill the blank with the word "fifteen."

And the question having been put on filling the blank with the word "twenty," it was decided in the negative.

The question then recurred on the motion to fill the blank with the word "fifteen." And having been put, it was decided in the affirmative. And a division having been called for, there were in the affirmative 46 and 35 in the negative. The rule, as amended, was then adopted.

The fifth rule, being read, was as follows: "All propositions shall be considered in the convention and not in committee of the whole."

Mr. Strong was opposed to this rule as an innovation upon all rules of legislation. No legislative body had to his knowledge dispensed with a committee of the whole.

Mr. Judd was somewhat surprised that the gentleman from Iowa should oppose the rule under consideration, when he had just offered a resolution that the convention do adjourn in three weeks. The time spent in committee of the whole was, in his opinion, time spent in vain. In the convention in the state of New York a week's time had been spent in committee of the whole in debating whether the governor should be thirty years of age and a freeholder, and another week was spent in the convention on the same question. So here, when a question has been fully debated in the committee, it will be again brought up in the convention and the whole ground traveled over again. Many members will vote in committee, and propositions may be incorporated in committee, which the convention will reject. These were the reasons that influenced the committee to report the rule, and he hoped that gentlemen would see the necessity of its adoption, and especially those who were so anxious to adjourn at an early day. The president of the convention can take part in the debate by calling some other member to the chair as is provided by another of the rules, so that the objection on that ground went for nothing.

Mr. Marshall M. Strong was one of the committee who reported these rules, but to this particular one he had objected and still did object. It was an innovation upon legislation which he did not believe would operate well. The adoption of the rule would spread a great many motions on the journal which otherwise would not find their way there, thus imposing labor on the clerk and lumbering the journal with unnecessary matters. In reply to the gentleman from Dodge, Mr. Judd, he said that in his opinion the president would never avail himself of the privilege granted him by the rule allowing him to call some member to the chair. No president would get up in his place and say to the convention, "Gentlemen I wish to speak on this matter." The consequence then of the adoption of the rule would be to deprive the convention of the advice and experience of the president. The continuance of the committee of the whole will save calling the ayes and noes a great many times, and thereby save the time of the convention. How much time would be consumed in making these calls he was not pre-

pared to say, but it would be found to amount to considerable. In his opinion the business of the convention would be expedited by the committee of the whole, rather than retarded as had been suggested.

Mr. William R. Smith was also one of the committee and was in favor of the rule as reported. He would grant that it was an innovation on legislation, but that was no reason why it may not be adopted here, and operate well. It was expected that the committees would prepare and perfect their business. True, that, in legislative bodies, this was not the case; hence the propriety of having the committee of the whole; but such he hoped would not be the case with this convention. Propositions would be laid before them, and the only question would be to receive or reject the same, one to amend being seldom if ever entertained. If this be the true ground, and he thought it was, the time of the convention would be saved by the adoption of the rule.

Mr. Moses M. Strong said his object in opposing the adoption of the rule was to save the time of the convention as far as possible. But he could not believe that the rule would have that effect, but a contrary one. He could not, as he said before, see why this body should mark out a course different from that pursued by all other legislative or conventional bodies. He must disagree with his colleague in the opinion that it would be a saving of expense. Committees will report the various matters referred to them, but those reports will be but the report of the opinion of seven or some other number of men, and the convention in all probability would see fit to amend the same; if this be done in the committee of the whole, the amendments will not be spread on the journal and the ayes and noes will not be called. How much time will be spent in calling the ayes and noes of this body cannot be at present determined. He would suppose that it could be done in fifteen minutes, and he thought that was too short rather than too long a time; then four calls, which could be demanded, as the rules now stood, by any eight members would consume one hour, and twelve times three hours or a half a day's session; and in the heat of debate gentlemen would have no care for expense or time when they would call

for these ayes and noes. But he was told that the same questions would be raised in the house which had been settled in committee of the whole. For such a course the convention had a remedy in the previous question, and when an effort to spend the time of the house unnecessarily should be discovered that question most certainly would be called.

Mr. Ryan was opposed to the rule and hoped it would not be adopted. In addition to what had been said by others, in which he concurred, he had another reason. The rule in his mind was founded in the bad opinion of the committee of the convention itself—that the convention will spend its time in entertaining improper questions, if the committee of the whole be allowed. It would be true that there would be many things suggested, some of which would be favorably received, and some rejected. Mr. Ryan could not make up his mind that the convention was composed of such obstinate materials as the committee had seemed to think. The opposite practice has been found to act well and he was not so progressive as to wish to change that which has always been found to work beneficially.

Mr. Chase said most of the members of this convention were new hands at legislation; but he understood that this rule was an innovation of the old practice, and for which he had as yet heard no reason. (Mr. Chase made some further remarks which were not fully caught by the reporter.)

The question was then taken on the rule and it was lost by a very decisive vote. * * *

The twelfth rule, being read, was as follows: "The ayes and noes may be called upon any question at the request of any eight members."

Mr. Moses M. Strong moved to strike out "eight" and insert "one-fifth of the members present." That was the number required by the Constitution of the United States for the House of Representatives of Congress.

Mr. Elmore had heard a great deal said about Progressive Democracy, but this motion was retrogressive, or the gentleman from Iowa did not belong to the progressive party. When the Whigs were all told, there were but sixteen of them, and one-

fifth of one hundred twenty-five, twenty-five. If the motion of the gentleman from Iowa was adopted, he would place it out of the power of the Whigs to call for the ayes and noes. He did hope that the dominant party would at least allow the Whigs to have a show.

Mr. Moses M. Strong would ever be ready to allow the Whigs, few as they were, to vote on all questions.

Mr. Chase was in favor of the rule as it then stood, and opposed to having one-fifth, as it would take considerable time to determine what number would constitute one-fifth of those present.

Mr. Moses M. Strong could not think there would be as much difficulty as was supposed by members, but he would modify his motion so as to strike out "eight" and leave a blank. The motion prevailed.

Mr. Strong then moved to fill the blank with "twenty." Lost.

Mr. Ryan moved "fifteen"; which carried.—*Argus,* Oct. 13, 1846.

Several other points of minor consideration contained in the report were discussed, among others, that relating to the number necessary to call for a division of the house, in which Mr. Elmore from Waukesha, Moses M. Strong, and Ryan participated.

Mr. Elmore wished the Whigs to have a small chance to make themselves heard in the convention—was aware they were but a small proportion of those present, but still he thought they should be allowed a chance to show that still they were there. He hoped the convention would reduce the number required for a call for a division as low as possible.

It was finally decided that fifteen should be necessary for such a call.—*Express,* Oct. 12, 1846.

Moses M. Strong moved to amend the thirteenth rule by striking out the words "one-fourth" in the third line, which was decided in the affirmative. And a division having been called for, there were in the affirmative 40 and 15 in the negative.

Mr. Chase moved to fill the blank with the word "fifteen." Mr. Judd moved to fill the blank with the word "twenty-five." And the question having been put on said last motion, it was decided in the

negative. The question then recurred on filling the blank with the word "fifteen." [And] having been put, it was decided in the affirmative.

Mr. Ryan moved further to amend the said rule by inserting after the word "fifteen" in the first line the words "or one-fifth," which was decided in the affirmative. Said rule, as amended, was then adopted.

Moses M. Strong moved to amend the fourteenth rule by striking out the words "by tellers" in the second line, which was decided in the affirmative. Said rule as amended was then adopted.

The question was then put on the adoption of the sixteenth rule, and decided in the affirmative.

Moses M. Strong moved to amend the seventeenth rule by striking out the word "suspended" in the second line. And having been put, it was decided in the affirmative. Said rule as amended was then adopted.

Marshall M. Strong moved to amend the report of the committee by inserting the following as rule fifth: "Fifth. The rules observed in convention shall govern as far as practicable the proceedings in committee of the whole, except that a member may speak oftener than twice on the same subject, and that a call for the yeas and nays or for the previous question cannot be made. Amendments made in the committee of the whole shall be entered on a separate piece of paper and so reported to the convention by the chairman, standing in his place; which amendments shall not be read by the president, unless required by one or more of the members," which was decided in the affirmative.

On motion of Mr. Judd [it was] ordered that 200 copies of the rules just adopted be printed for the use of the members of this convention.

Moses M. Strong introduced the following resolution, which was adopted, to wit: "*Resolved,* That 200 copies of the rules adopted for the government of the convention be printed in pamphlet form, together with a list of the standing committees, the names of the members of the convention, together with their residences and boarding houses."

On motion of Mr. Lovell the resolution to refer the resolution for the appointment of standing committees to a select committee was taken up, when Mr. Judd moved to amend said resolution by striking out the word "five" in the third line and inserting the word "seven" in lieu thereof. Mr. Steele accepted the said amendment as a modification to the original resolution. Mr. Baker moved further to amend said resolution by striking out the word "seven" in the third line and inserting the word "thirteen" in lieu thereof, which was decided in the affirmative. The said resolution as amended was then adopted.

The President announced the appointment of the following committee under the resolution above named, to wit: Messrs. Steele, Baker, A. Hyatt Smith, [Graham, Reed, Agry, George B. Smith,] Dennis, Moses M. Strong, Phelps, Bevans, Prentiss, and Ryan.

Mr. Chase presented the following resolution which was read and on his motion laid on the table, to wit: "*Resolved,* That each member of this convention be furnished with forty copies of any paper published in Madison during the session of the convention."

On motion of Mr. Lovell the convention adjourned.

WEDNESDAY, OCTOBER 7, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday [was] read and corrected.

Mr. Crawford presented the credentials of George Hyer, from the county of Jefferson, and on his motion said Hyer was admitted to a seat as a member of this convention.

Mr. Baker presented the credentials of Israel Inman Jr. and Sanford P. Hammond, who were on his motion admitted to seats as members of this convention.

Nathaniel F. Hyer introduced the following resolution, which was read and laid over under the rule until tomorrow morning, to wit: "*Resolved,* That the clerk of the supreme court, the clerks of the several district courts, and the registers in chancery be and they are hereby requested to furnish for the information of this convention a statement showing: First, The number of suits commenced in their respective courts during the year ending on the first day of October, 1846; second, the number of trials had and suits disposed of; third, the amount of money collected during the same term, exclusive of costs; fourth, the amount of costs and fees charged in the business of their respective courts during the same term by clerks, registers in chancery, sheriffs, and all other officers of their respective courts, witness' fees, and the amount of attorneys' fees, as near as they can estimate the same."

Mr. Steele, from the select committee to whom was referred the resolution of Wm. R. Smith referring several subjects to appropriate committees, made the following report:

"The committee to whom was referred the resolution for the appointment of certain select committees therein named beg leave to report that they have duly considered the resolution referred to them and report the same back with the following amendments:

"Strike out the word 'seven' in the first line, and insert instead thereof the word 'five,' and strike out all after the word 'convention' in the third line, and insert as follows:

1. On the constitution and organization of the legislature.
2. On the powers, duties, and restrictions of the legislature.
3. On the executive of the state.
4. On the organization and officers of counties and towns, and their powers and duties.
5. On the organization and functions of the judiciary.
6. On municipal corporations.
7. On banks and banking.
8. On corporations other than banking and municipal.
9. On a bill of rights.

10. On a preamble.
11. On suffrage and elective franchise.
12. On the militia.
13. On education, schools, and school funds.
14. On finance, taxation, and public debt.
15. On internal improvements.
16. On miscellaneous provisions not embraced in the subjects committed to other committees.
17. On amendments to the constitution.
18. On the act of Congress for the admission of the state.
19. On the name and boundaries of the state.
20. On the schedule for the organization of the state government.
21. On the eminent domain and property of the state.
22. On the revision and adjustment of the articles of the constitution, adopted by the convention.

"All of which is respectfully submitted.

E. STEELE, of Racine,
Chairman of Committee."

The report of the committee was accepted and the committee discharged from the further consideration of the subject. The question having been put on the adoption of the report of the committee, it was decided in the affirmative.

Mr. Dennis moved that 200 copies of the above report be printed, which was decided in the affirmative.

Mr. Parks introduced the following resolution, to wit: *"Resolved,* That this convention elect a second assistant secretary," which was laid over under the rule.

The following resolution introduced yesterday by Mr. Chase was then taken up, to wit: *"Resolved,* That each member of this convention be furnished with 40 copies of any paper printed in Madison during the session of the convention." Mr. Judd moved to amend said resolution by striking out the number 40 and inserting the number 25 in lieu thereof. Mr. Baker moved to amend the amendment by striking out the number 25 and inserting the number 3 in lieu thereof. Mr. Lovell called for a division of the question. And the question having been put on striking out the number 40, it was decided in the affirmative. And a division having been called for, there were 50 in the affirmative, negative not counted.

Moses M. Strong moved to fill the blank with the number 260. Mr. Baird moved to fill the blank with the number 30. Mr. Kinney moved to fill the blank with the number 15. And the question having been put on filling the blank with the number 260, it was decided in the negative. The question then recurred on filling the blank with the number 30 when John Y. Smith was excused from voting on the said question. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 30, negative 62; for the vote see Appendix I, roll call 1].

Mr. Lovell moved to fill the blank with the number 20 and subsequently withdrew the motion, which was renewed by Marshall M. Strong. Moses M. Strong moved to postpone the resolution until the fourth day of July next. And the question having been put upon said motion, it was decided in the negative.

Moses M. Strong then moved to lay the said resolution on the table, which was decided in the negative.

Mr. Baird then moved to fill the blank with the number 25, which was decided in the negative. And a division having been called for, there were 35 in the affirmative, negative not counted.

The question then recurred on filling the blank with the number 20 [which was decided in the affirmative]. And a division having been called for, there were 57 in the affirmative, negative not counted.

Mr. Lovell moved further to amend the resolution by inserting after the word "Madison" in the third line the word "weekly," which was decided in the affirmative.

George Hyer moved further to amend the resolution by adding thereto the words "and that the printer be paid the sum of five cents per copy for said papers." Mr. Giddings moved to amend the amendment by striking out the number 5 and inserting the number 4 in lieu thereof, which was decided in the affirmative. And a division having been called for, there were 48 in the affirmative and 10 in the negative. The question then recurred on the adoption of the amendment as amended. And having been put, it was decided in the affirmative.

Mr. Ryan then moved further to amend the resolution by inserting after the words "every member of the convention" the words "for distribution among his constituents," which was decided in the affirmative. And a division having been called for, there were 36 in the affirmative and 28 in the negative.

The question then recurred on the adoption of the resolution as amended. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 58, negative 37; for the vote see Appendix I, roll call 2].

The resolution offered by Mr. Chase yesterday was announced the next business in order.

Mr. Judd offered an amendment to the resolution substituting twenty-five in place of forty copies.

Mr. Steele was opposed to the amendment. This was not a matter to benefit the members, but to benefit the people—their constituents—that they might know what we were doing here, and that they might vote understandingly on the results of this convention when it was presented to them. He was in favor of the original motion.

Mr. Chase represented alone the Democracy of Fond du Lac, and he wanted to let the whole people of his county hear how they were conducting the great interests confided to this convention. He hoped the original motion would not be altered.

Mr. Ryan said that there was an economy that saves money and an economy that spends money—an economy that saves pennies and spends pounds. If there is a breeze that blows from us to our constituents, and from them to us, there was a reciprocal influence that resulted in good, both to them and to us. They were informed of our proceedings, and we were subject to the expression of the popular will. They could vote understandingly on the deliberation of this body—we act knowingly on the wishes of our constituents. We represent, at an average, 1,300 people, and they should all know, as they were anxious to know, what we were doing here.

Moses M. Strong went against this mode of procuring papers altogether. He wanted to show the effect. This resolution proposes to furnish forty papers weekly to each delegate. Although he hoped the session would not last longer than three weeks, yet it was thought by many that eight weeks would be consumed; and, at the number proposed, forty thousand papers would be furnished at an expense of $2,000. Every man interested in the proceedings of this body knew what we were doing; those who did not care would not be informed by our sending to their door a copy of our proceedings. This was a dishonest expenditure of the people's money. We had no right to do it. To distribute forty papers among 1,300 people afforded a communication to but a small part. It was taxing the great body to benefit the few. This was a small means of electioneering—to pamper a few who might be pleased—but many would hardly thank their representatives for such a manifestation of regard as an isolated newspaper. He wanted the people to know and understand this policy.

Mr. Baker thought that three copies were sufficient. There were three papers published here, and inasmuch as the journal was not printed daily, it was necessary that the members should have something by which to watch their progress—and this was all that should be granted to members. This resolu-

tion was making a bad precedent, as well as being wrong in principle.

(Remarks from several gentlemen who followed were lost.)

Mr. Ryan wished to add a word as to expense. There were 125 members. The expense would be $250 per week; a small item of expense in comparison with the object. He did not think the amount would be better expended. He thought when they sat in private—as in private they must sit in this town—we should take means to let people know what we were doing. A Democrat in private belonged to the retrograding Democracy, and not to the progressive Democracy. It was a Democracy that grew out at the tail and not at the head. He wished that all his constituents and the constituents of every member could be where they might hear and see the action of this convention. For the sake of advising the people of the doings of this body, this expenditure would be better appropriated than in any other way. A gentleman had remarked that this, like the dews of heaven, would not fall equally. He did not think so. During the session everybody was interested in the proceedings. His constituents had tongues and they talked, and that [*sic*] their action would reach his 1,300 constituents, men, and women, too, for they also looked here for protection. If the principle held good in one case it must also in another. All were taxed for the support of the judiciary, but no one would assume from this that all were litigants. And if the principle contended for by those opposed to this resolution, the lobby members of our legislative bodies should be taxed at least three-fourths of the expense of such bodies.

Mr. Moses M. Strong thought $250 per week a large expenditure. But his chief objection was not reached by the gentleman from Racine. His constituents did not live in villages to loiter about the streets, but digging away among the mineral and striking for a new lead. They were all interested in the proceedings of this convention, and every man fit to have a paper took one; and the exchange of papers furnished them with all that transpired here.

Mr. Kellogg said the entire economy was bad. His constituents derived all their news from their county papers, and through these they would know of the proceedings of this body.

The amendment was then put and carried.

Mr. Moses M. Strong moved to insert 260. Lost.

Mr. Baird moved 30.

Mr. Moses M. Strong moved an indefinite postponement.

Decided out of order.

Mr. Marshall M. Strong renewed the motion of his colleague.

Mr. Moses M. Strong moved to postpone till the fourth of July, 1847.

Mr. Marshall M. Strong raised the point of order.

Mr. Baker thought the question was the filling of the blank. No other motion could be entertained until all the series of numbers were voted upon.

The President decided that the motion to postpone was in order—that it was not within the knowledge of the Chair to what length the session might be protracted.

Marshall M. Strong appealed from the decision. He said this was but a motion, and did not require a renewal of any amendment, and was not decided until the blank was filled. The convention had not decided on any number when they voted down 260. He thought the motion was equivalent to an indefinite postponement. The decision did away with the rule. The friends of a measure could be put down at once if this decision prevailed. The President must have understood the question as he had; else why had he taken down the members as they were named.

Moses M. Strong said he supposed the question was on the decision "Shall the Chair be sustained?" The decision was that he was in order. The original resolution had not been disposed of. If the first was not disposed of he had a right to make the motion to postpone. Each was a decided and particular motion. He would admit that a motion to postpone to a day certain, beyond the probable session, was tantamount to an indefinite postponement. The decision of the Chair was very correctly made. He thought the convention might not adjourn before the fourth of July, '47, if the doings of the morning were to be the criterion.

The President said he had not had time to consider the question, but he should be happy to be corrected if wrong. He then

stated the question when Marshall M. Strong withdrew his motion.

The motion of indefinite postponement was then put and lost.

Moses M. Strong then moved to lay on the table. Lost.

The Chair put the question on filling the blank with 25. Lost.

Mr. G. B. Smith was of opinion that 40 would have been a proper number. It was necessary that the public have the information to decide on the constitution this convention will present. He wanted to know that if in a community of sixty by distributing a few papers they would be all informed of the doings of this body. If the people did not hear what we did it was unnecessary for us to do. The production of this body was to be placed immediately before the people for their acceptance or rejection. The papers had reporters, and, by sending them to the people, misapprehensions would be corrected and perhaps the entire labor of this convention saved from a rejection founded on inadequate knowledge of its proceedings.

After some slight further discussion, the motion to fill the blank with 20 was put and carried.

Mr. Ryan offered an amendment to insert the word "weekly" before the word "papers." Carried.

Mr. G. Hyer moved the printers be allowed five cents per copy.

Mr. Giddings moved four cents.

Moses M. Strong did not see the necessity of swindling the printer.

Mr. Judd thought the printer could afford it.

Mr. G. Hyer said if they would pay for them in advance it would answer.

The amendment was adopted.

Mr. Ryan moved another amendment, to wit: by inserting "for distributing among their constituents."

Mr. Elmore asked—"Why gild the pill?" He could not see what right the convention had to bind him to send his papers.

Mr. Ryan did not vote for the resolution on any other principle than that the papers were for distribution, and if the

gentleman from Waukesha did not want his papers, the people would not have them to pay for.

The amendment was carried.

Moses M. Strong said that for the purpose of allowing the retrograding crawfishing Democracy the privilege of recording their votes he would call for the ayes and nays.

Mr. Wakeley wished the matter understood. He was not a stranger to Democracy, and to progressive Democracy. He did not expect to answer the arguments offered, but it appeared to him to be opposed to Democracy. He did not believe his constituents sent him here to tax them for papers. If a bill to have the members themselves taxed for this purpose, how many votes would it receive? He opposed it on the ground that it was antidemocratic to force a tax upon the people for a paper they, perhaps, did not want.

Mr. Steele said much had been said about the expense of furnishing the people with the proceedings of the convention. The proceedings of yesterday and today cost $500, and little but useless discussion had taken place. This amount would have done much towards placing the convention and its proceedings before the people. And if gentlemen wished the doings of this convention understood as we progress, more active exertion should be adopted. In voting for this measure he voted his own taxation as well as that of his constituents.

Mr. Kellogg said we could not shut out the information from the people—they would have it. He thought it a waste of public money. He believed that we were establishing a precedent that was entirely wrong.

The ayes and nays were called, which resulted as follows: [ayes 58, noes 37; for the vote see Appendix I, roll call 2].—*Democrat,* Oct. 10, 1846.

The unfinished business coming up in order, the resolution offered yesterday by Mr. Chase was taken up.

Moses M. Strong moved for a call of the yeas and nays.

Mr. Judd wished the resolution read before being submitted —was under the impression that its reading was not as definite as might be, as it does not state whether the forty papers in-

tended for the members should be weekly or for the whole session. If the former, the number was too large, and if the latter, as much too small. He would offer an amendment previous to the vote being taken.

W. R. Smith inquired if the intention of the resolution was to apply to any particular paper and was answered in the negative by the Chair.

Mr. Judd would amend the resolution so as to read 25 instead of 40 newspapers.

Mr. Steele thought the number contained in the resolution not one too many for the thousands of the constituents represented in this body; it was necessary that they should know what was being done in this convention from day to day, and this was the only method of placing such information before them, and therefore advocated the passage of the resolution without amendment.

Mr. Chase spoke in opposition to the amendment; he was the only Democratic member from his county, and so small a number would go but a little way in furnishing the Democrats in his county with papers advocating Democratic principles and measures. Both his colleagues were Whigs, and they could supply the Whigs with twice the number he would be able to distribute.

Mr. Elmore thought twenty-five sufficient to supply the people with all the information they could desire—he believed his colleagues would make no distinction between Whigs and Democrats in the distribution they would make.

Mr. Ryan had heard of one description of economy that saves, and another that wastes, and was inclined to think this matter ranked with the latter—it was decidedly a "penny-wise and pound-foolish" movement. This convention would no doubt remain in session some considerable time, and unless the people were aware of what they were doing they might depart materially from the course most satisfactory to them. With the proceedings placed before them from time to time, they would be enabled to form a good idea of what was doing, and, if not satisfactory, proceed at once to remedy the evil. For his part he was open to the instructions of those

whom he represented in this body. It was intended that the constitution produced by this convention should be submitted for the approval of the people, and their being acquainted with the details of its proceedings would enable them to form a correct opinion of its merits and demerits, but if they should be kept in the dark they might be led to reject this constitution from a want of sufficient time to consider upon its merits and demerits, and the whole cost of this convention thus be thrown away, whereas they might be saved by the judicious expenditure of a few picayunes.

Moses M. Strong took grounds against the members being allowed any papers at the public expense; considered such a distribution dishonest in effect against the interest of the taxpayers. He gave statistics to show the enormity of the expense, amounting to some $2,000 during a session of eight weeks, and every gentleman should consider the expediency of such a precedent upon the very commencement of our progress. He knew no equal distribution could be made of forty or twenty-five papers a week; some prominent men would be burdened with three or four, and the great majority never see one; yet all were compelled to pay alike for them. They would be used to flatter the pride and vanity of a favored few for mere electioneering purposes, at the expense of the great mass of the people. His constituents were as anxious as any others in the territory to receive information of the progress of this convention; yet they were as anxious to pay for it. He hoped the measure would not prevail.

Mr. Baker would favor the substitution of 3 instead of 40, for the personal reference of the members; and, as there was to be no publication of the journal, he was of opinion that this number was actually necessary to have before them the proceedings from day to day.

Mr. Steele opposed any amendment; gave the convention to understand that he ranked among the "progressive" Democracy; would have knowledge distributed among the people as far as possible; was opposed to the principle of depriving children of an education to save the paltry sum to pay a school-

master; and thought it a foolish plan to keep the people in the dark in regard to the proceedings of this convention.

Mr. Judd spoke in advocacy of his amendment. He did not quite understand all that had been said upon "progressive" Democracy and the age of improvement, since the commencement of the session. If it meant the equal distribution of public benefits among the people, he was of that party; but if otherwise, he was no Progressive Democrat, but he claimed to belong to the progressive party "as he understood it." But he thought the precedent a bad one with which to commence the proceedings of a convention to form the organic law of our future state, and would therefore like to see the number reduced.

Mr. Ryan again took the floor to oppose any amendment and was followed by Moses M. Strong, who argued the expediency, economy, and propriety of abolishing the practice of furnishing papers to members.

Mr. Crawford, of Milwaukee, advocated the adoption of the resolution without amendment.

The call for a division upon the amendment was sustained, and the question, being put, was decided in the affirmative. The resolution thus reads 20 instead of 40 papers.

George Hyer moved an amendment, to wit: "That the printers be allowed five cents each for such newspapers."

This gave rise to another grave discussion.

Mr. Dennis thought the printer ought to furnish them for four cents, as he could afford to wholesale them cheaper than he could retail them.

Mr. Hyer remarked that the printers could make nothing by furnishing the papers at five cents, as he knew from experience. He was a printer himself, and had furnished papers to legislative bodies, so that he considered himself competent to judge of this matter. The expense attending the report of the proceedings increased the ordinary cost of getting up the paper.

Mr. Giddings was in favor of reducing the price to four cents.

Moses M. Strong thought this a poor business. While they were compromised in regard to the matter, the convention should not shrink from their position by swindling the printers.

Mr. Judd thought they could be afforded for four cents and would vote for such reduction.

After some three hours more spent in discussing this subject, Messrs. Ryan, Moses M. Strong, Kellogg, Steele, George B. Smith, and others taking part therein, it was finally put and carried that the resolution should read thus:

"*Resolved,* That each member of this convention be furnished with 20 copies of any paper published in Madison, weekly, for distribution among their constituents, and the printer be allowed four cents each for the same."—*Express,* Oct. 12, 1846.

Mr. Crawford presented the credentials of James M. Moore, a member of the convention from the county of Waukesha, who, on his motion, was admitted to his seat as such member.

Moses M. Strong moved that the convention adjourn, which was decided in the affirmative. And a division having been called for, there were 53 in the affirmative, negative not counted. So the convention adjourned until tomorrow morning at ten o'clock.

THURSDAY, OCTOBER 8, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read and corrected.

Mr. Hyer presented the certificate of election of Peter H. Turner as a delegate to this convention from the county of Jefferson. And upon his motion he was admitted to a seat.

Mr. Dennis presented the certificate of election [of] John H. Manahan as a delegate to this convention from the county of Dodge. And upon his motion he was admitted to a seat.

Mr. Baker presented the certificate of election of Wm. C. Green as a delegate to this convention from the county of Green. And upon his motion he was admitted to a seat.

The resolution introduced by Mr. Gray on the sixth instant relative to printing was then taken up, when Mr. Baker moved to amend said resolution by striking out all after the word "*Resolved,*" and inserting as follows: "That Benjamin Holt be employed to do the incidental printing of this convention, and to print the journal of its proceedings, *Provided,* that he shall execute to the treasurer of the territory a bond, to be approved by the governor, with one or more freeholders as sureties, in the penal sum of $2,000, conditioned for the faithful performance of such work."

Mr. Elmore offered the following as a substitute to the amendment, to wit: "Strike out all after the word '*Resolved*' and insert 'That a printer to the convention be elected forthwith viva voce, and the mode of conducting the election shall be by calling the names of the members from the list of ayes and noes, and every member shall answer the name of the person for whom he votes, and a statement of the vote [shall be recorded] at length on the journal.'" And the question having been put on the adoption of said substitute, it was decided in the affirmative.

Mr. Elmore said he had an amendment to the amendment. He wanted to see the Retrograding Democracy and the Progressive Democracy and the Whigs come straight up to the mark. He did not wish members to sneak behind a secret vote. He never gave a vote he was ashamed to record, and he hoped to see every man's vote in a tangible form. He therefore moved to strike out all after the word "*Resolved*" and insert "That a printer to the convention be elected forthwith viva voce, and the mode of conducting the election shall be by calling the names of the members from the list of ayes and nays, and every member shall pronounce the name of the person for whom he votes,

and a statement of the vote in all its details shall be rendered at length on the journal."

Moses M. Strong asked if the gentleman supposed he could scare a Democrat by such a proposition. There was no gentleman of the Democratic party but what was ready and willing to record his vote on this or any other question as were the Whig members. He was here to vote for his constituents, and he did not wish to hide himself behind a secret ballot.

Mr. Beall was prepared for this question—all were prepared. The ayes and noes had no terrors for him—it had no terrors for anyone. He rose to express the hope that the scenes of yesterday were not to be revived.—*Express,* Oct. 12, 1846.

Mr. Beall was prepared to vote for the printer now and was before he entered this room and he believed every gentleman was equally prepared. Ayes and noes on all questions had no terrors for him; he was always prepared to show his constituents how he had voted in this body. His whole object in rising was to urge upon the convention the necessity of voting at once on the question and not reënact the scenes of yesterday.

The question was taken and the substitute prevailed.—*Argus,* Oct. 13, 1846.

The question then recurred on the adoption of the resolution as amended. And having been put, it was decided in the affirmative. Whereupon the convention proceeded to the election of a printer to the convention in accordance with said resolution. And the names of the several members having been called they voted as follows:

Those who voted for Beriah Brown were: Messrs. Barnes Babcock, Baird, Hiram Barber, Burnside, Warren Chase, Cooper, Coxe, Crawford, Cruson, Dennis, Dickinson, Doty, Drake, Dunning, Edgerton, Ellis, Fitzgerald, French, Gibson, Giddings, Goodell, Goodrich, Goodsell, Graham, Granger, Gray, Harkin, Hazen, Hesk, Hill, James, Janssen, Judd, Asa Kinne, Meeker, Moore, O'Connor, Parks, Mr. President, Rankin, Reed, Rogan, George B. Smith, William R. Smith, Steele, Toland, Turner, Vliet, White, and Wilson—50.

Those who voted for Benjamin Holt were: Messrs. Agry, Atwood, John M. Babcock, Baker, Beall, Bell, Bennett, Bevans, Bowen, Bowker, Boyd, Hiram Brown, Chamberlain, Fuller, Green, Geo. B. Hall, James H. Hall, Hammond, Huebschmann, Geo. Hyer, Nathaniel F. Hyer, Inman, Jenkins, Kellogg, Kern, Lovell, Madden, Mills, Noggle, Parkinson, Phelps, Pierce, Prentiss, Ryan, Seaver, A. Hyatt Smith, Sewall Smith, Soper, Marshall M. Strong, Moses M. Strong, Topping, Wakeley, Whiteside, and Willard—44.

Those who voted for Wm. W. Wyman were: Messrs. Burchard and Elmore—2.

Beriah Brown, having received a majority of all the votes cast, was declared by the President duly elected printer to the convention.

Mr. Moses M. Strong: Mr. President, will the Whig vote be counted for Mr. Brown?

President: That question must be settled in caucus.

Mr. Ryan: I understand that caucuses have been exploded from this body.—*Argus,* Oct. 13, 1846.

The following resolution, introduced on yesterday, was then taken up, to wit: "*Resolved,* That this convention elect a second assistant secretary," and on motion of Mr. Giddings the resolution was laid on the table.

The resolution for electing a second assistant secretary was announced the next business in order.

Mr. Ryan wished to know if one was wanted.

The Secretary answered that for the present they could write out the proceedings, but that it was necessary to copy them into a book, and that by and by another secretary would be necessary to do this part of their duty.—*Democrat,* Oct. 10, 1846.

The resolution introduced on yesterday calling upon the clerks of the different courts in the territory for certain information was then taken up, when Moses M. Strong moved to lay the said resolution on the table, which was decided in the affirmative. And a division having been called for, there were 47 in the affirmative and 28 in the negative.

On motion of George B. Smith the convention adjourned until four o'clock, P. M.

FOUR O'CLOCK, P. M.

The President announced the appointment of the following standing committees, to wit:

1. On the constitution and organization of the legislature: Messrs. Marshall M. Strong, Baird, Tweedy, Madden, and Cooper.

2. On the powers, duties, and restrictions of the legislature: Messrs. Agry, Bell, Hesk, Jenkins, and Inman.

3. On the executive of the state: Messrs. Reed, Agry, Whiteside, Boyd, and Rankin.

4. On the organization and officers of counties and towns, and their powers and duties: Messrs. Baird, Marshall M. Strong, Asa Kinne, Mills, and James.

5. On the organization and function[s] of the judiciary: Messrs. Baker, Ryan, Hiram Barber, William R. Smith, and O'Connor.

6. On municipal corporations: Messrs. Bevans, Burnett, Clark, Hazen, and Pierce.

7. On banks and banking: Messrs. Ryan, Gibson, Phelps, Sewell Smith, and Soper.

8. On corporations other than banking and municipal: Messrs. Noggle, Gray, Randall, Kern, and Hammond.

9. On a bill of rights: Messrs. George B. Smith, Giddings, Wakeley, Granger, and Goodrich.

10. On a preamble: Messrs. O'Connor, Dunning, Hill, Bowker, and James H. Hall.

11. On suffrage and elective franchise: Messrs. Moses M. Strong, Huebschmann, Cox, Burchard, and Manahan.

12. On the militia: Messrs. Wm. R. Smith, Crawford, Parkinson, French, and Topping.

13. On education, schools, and school funds: Messrs. Graham, Ryan, Dennis, Fitzgerald, and Drake.

14. On finance, taxation, and public debt: Messrs. Judd, Burnside, White, Toland, and Kellogg.

15. On internal improvements: Messrs. Meeker, N. F. Hyer, Rogan, Wilson, and Green.

16. On miscellaneous provisions not embraced in the subjects committed to other committees: Messrs. Steele, Warren Chase, Doty, B. Babcock, and Bowen.

17. On amendments to the constitution: Messrs. Lovell, Parks, Cruson, Atwood, and Bennett.

18. On the act of Congress for the admission of the state: Messrs. Prentiss, Ellis, J. M. Babcock, Willard, and Chamberlain.

19. On the boundaries and name of the state: Messrs. Doty, Edgerton, G. B. Hall, Goodell, and Dickinson.

20. On the schedule for the organization of state government: Messrs. Beall, John Y. Smith, Turner, Seaver, and Harkin.

21. On the eminent domain and property of the state: Messrs. A. Hyatt Smith, Janssen, Fuller, Parsons, and Goodsell.

22. On the revision and adjustment of the articles of the constitution adopted by the convention: Messrs. Parks, Elmore, Steele, George Hyer, and Hiram Brown.

Hiram Barber moved that the committee on the organization and functions of the judiciary be increased by the appointment of four additional members, which was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 80, negative 13; for the vote see Appendix I, roll call 3].

Mr. H. Barber moved to increase the committee on the judiciary by adding four more thereto.

Mr. Moses M. Strong could not vote for the proposition, and would content himself with calling the ayes and noes.

Mr. Barber said the committee on the judiciary was the most important one in the convention, and he hoped it would be increased. He thought that a larger committee would be more likely to produce for the consideration of the convention well adjusted articles than the present one would do.

Mr. Wm. R. Smith should vote for the motion. There were precedents for increasing committees which were important in consequence of the business or duty which was required of [them]. The judiciary committee had probably more to do than any other committee in this convention. He held the doctrine and thought it right, that the larger the committee the greater the probability that the business before them would be better done, because it would bring more minds to bear upon it.

The ayes and noes being ordered, they were taken, and there were ayes 80, noes 13.—*Argus,* Oct. 13, 1846.

Mr. H. Barber thought the committee on the judiciary was the most important committee of the convention. He therefore moved that it be increased to nine.

Moses M. Strong did not wish the committee increased. He wished to concentrate opinion. If the question looked to the dispatch of business it would be another matter. But it was calculated to retard the progress of the committee. The reason of adopting the mode of committees was simply to bring before the convention the business in a tangible form. He called for the ayes and noes.

Wm. R. Smith should vote aye. The duties were the most arduous and responsible of any other, except, perhaps, one or two. We have reduced it from seven to five. He had never heard of less than seven on such a committee—more frequently eight or even thirteen. The matter of a judiciary should be discussed fairly and fully in the committee before [being] brought before the convention. He could not perceive the force of the objection of his colleague.—*Express,* Oct. 12, 1846.

A. Hyatt Smith moved to reconsider the vote upon the above question, which was decided in the affirmative. And a division having been called for, there were 46 in the affirmative and 16 in the negative. And the question having been again put on increasing the said committee, it was decided in the affirmative. And the ayes and noes having been

called for and ordered, those who voted in the affirmative were [affirmative 48, negative 42; for the vote see Appendix I, roll call 4].

The vote [roll call 3] having been announced, Mr. Ryan asked for the reading of the names of the committee on the judiciary as announced, which were read by the Secretary. Mr. Ryan said he thought he had heard his name announced as one of the committee, though he was engaged at the time. He rose to ask to be excused from serving on that committee, and he would give his reasons for the request. The resolution under which this committee had been appointed was first introduced by the gentleman from Iowa, Mr. Wm. R. Smith, and provided for a committee of seven; it was referred to a select committee of thirteen and by them reduced [to] five. No effort was made to increase the committee when the report was made, but on the contrary the number was agreed upon by the convention. This morning we met, and the President declared from his seat that he wanted time to arrange and appoint his committees; yet nothing is said about increasing this committee. Again, at the meeting this afternoon no motion is made until the committee is announced. But no sooner is that announcement made than this motion is offered to the convention and is adopted. To his mind it was nothing less than a reflection on the members of the committee as not likely to carry out the views of the majority of the convention, or as being incompetent to perform their duty. Under this view of the subject, and he could give it no other, he could not consent, after what he must consider and what appeared on the journal as a direct reflection, if not censure, on the committee as at present organized, to serve thereon.

Mr. Judd could not agree with the gentleman from Racine (Mr. Ryan) that the vote just taken was either a reflection or censure on the committee. Certainly, he for one had no such idea. He had voted for the motion for two reasons: First, the motion came from a member of the committee; and second, he was in favor of increasing this and some other of the committees, believing that the larger the committee the more probability there would be of a well-digested and acceptable report. He hoped the gentleman from Racine would review the sub-

ject, change his opinion in regard to the vote of the convention, and consent to serve on the committee.

Mr. Barber was not of opinion that the vote just taken would be construed as the gentleman considered. He had no such intent when he made the motion. He hoped he should still have the aid and assistance of the gentleman from Racine on the committee.

Mr. Ryan had listened to the explanations of the gentlemen, but whatever might be their private opinion, it was not so expressed. He was not aware that the motion had been made by a member of the committee, and that fact did not alter his opinion of the subject or induce him to serve on the committee; but, on the contrary, it furnished him with an additional reason why he could not serve. It showed to him that a member of the committee was dissatisfied with his associates and wished others added that the majority may be swamped. But he was told that it was no reflection on the committee either as to the manner in which they were constituted or to their competency. If the committee was competent for their duty, why add to their number? No answer could be given but that which appears upon the journal, and gentlemen might as well say so (they did in fact, when they argued that others were needed on it)—that the committee were incompetent to perform their duties. This was the plain language of the journal, and under it he must insist on his request.

Mr. Moses M. Strong agreed with the gentleman from Racine in opinion, and for those reasons he had opposed the motion at the first. He hoped some gentleman who had voted with the majority would move a reconsideration of the vote.

Geo. B. Smith could not look upon the matter in the same light as the gentleman from Racine did, and after the explanations that had been given he hoped he would continue to serve.

Mr. Marshall M. Strong: It was well known to every man who was in the habit of attending political and other bodies that when a committee which had been appointed did not reflect the will of the meeting an addition was made to the committee that the majority might be overwhelmed and a different report might be obtained. This fact and principle being known,

he could not blame his colleague (Mr. Ryan) for refusing to serve. In reply to those gentlemen who urged for a larger committee he would say, that so far as his experience had gone, small committees were more likely to make reports in a short time than large ones. If there were fewer minds on the committee there were fewer men to conciliate and less probability of counter reports. Every member on a committee may make a report, and if so, there will be nine reports from this committee. He considered the reason given by his colleague, that it was an imputation on the competency of the committee, unanswerable.

Mr. A. Hyatt Smith did not at the time of taking the vote think that they were casting any imputation on the committee, but on reflection he saw that it did; but whether it did or not, he should now vote differently, because one of the members of the committee so considered it. He concluded by moving to reconsider the vote. And it was reconsidered.

Mr. Judd again called for the ayes and noes, which were ordered, and being again taken, they were as follows: [ayes 48, noes 42].—*Argus,* Oct. 13, 1846.

Mr. Ryan stated the fact that the number of this committee had been before the convention in the original resolution—that the select committee had reduced the number from seven to five—and that the standing committee had been announced by the President. Now nothing had been said during all this time against the number of the committee, but as soon as such committee was announced a motion was made to increase the number, and it had been sustained. He knew not how it might be construed, but he looked upon it as a direct censure upon the committee and upon the Chair.

Mr. Judd did not so understand it. He thought the motion was right. It was made by one of the committee. No one understood, he was sure, the motion as a censure.

Mr. H. Barber said it was not his purpose to censure the committee. It was to enhance the opinions before them that the best possible results might be arrived at in committee. He had

no such intentions as the gentleman had been pleased to construe his motion.

Mr. Ryan still persisted. He wished to say a word in reply to the last gentleman. He did not know what gentlemen's intentions were; and that did not alter the case. The gentleman said it was not a censure on the committee; but it might be so regarded. It was in the thing itself that made it objectionable —the act was what it would be judged by. It would appear on the journal with no proviso. The gentleman had declared it was not moved on the ground of incompetency in the committee; but he asked the convention—if they were competent to discharge their duty—why the necessity of increasing the number? The motion on its face carried the incompetency of the committee. The gentleman might differ from him, but the fact was the convention voted that five was a sufficient number, and when the Chair announced such committee, they voted not only that the number was not enough, but that those who were appointed were incompetent to fill the station assigned them.

Mr. Moses M. Strong said he thought the gentleman was correct. He hoped the request of the gentleman would be granted.

Mr. A. H. Smith was satisfied that it might be construed into a censure. He would therefore move a reconsideration. Carried.—*Express,* Oct. 12, 1846.

Mr. Ryan asked to be excused from serving on said committee, which was agreed to.

The President then announced the appointment of the following additional members upon said committee, to wit: Messrs. Baird, Moses M. Strong, Agry, George B. Smith, and Tweedy.

Moses M. Strong asked to be excused from serving on said committee, and no objection being made he was so excused, and the President appointed J. Allen Barber in his stead.

Mr. Parkinson had looked on the first vote in the same light as did the gentleman who asked to be excused; and the last he must consider an insult to that committee; and if he had been named on it he would under no circumstances consent to act thereon. Why was not this motion to increase the committee made before today, or if today, before the committee was announced? If the incompetency of the committee depended on the numbers, it was as well known yesterday or this morning as

after the President had declared them; but no, they wait until the names of the members are declared, and then this motion is made. The incompetency is then with the members themselves. Under such a view, and no other can be given to the vote, no honorable man could consent to serve on that committee. He should vote to excuse Mr. Ryan from the committee.

Mr. Judd should vote to excuse Mr. Ryan, though not on the grounds he had asked it, but because he had asked for it. He did not believe in compelling men to render an unwilling service.

Mr. Ryan was unanimously excused.

The President then named Messrs. Moses M. Strong, Baird, Agry, G. B. Smith, and Tweedy.

Mr. Moses M. Strong asked to be excused and stated that he could not consent to serve on that committee after the vote which had just been taken: The first vote taken cast an imputation on the committee and caused one of its members to ask to be excused from serving. He had been excused, and the convention could not make use of him to carry out a censure of this kind. I have to say that I cannot and will not serve on this committee.

Mr. Strong was excused.

Mr. Baird was named on the committee, but he was not going to say that he would not serve. He had voted for the proposition to add to the committee because it would benefit the convention to have an increase made to that particular committee. In giving that vote he had no idea of wounding the feelings of any man, and he was sorry if it was so. He was equally sorry to see the feeling that had been exhibited by gentlemen on this subject, and for one he must say he could not see the cause of it. At the time of the vote he did not know the names of the members of the committee, and had voted only with a desire to increase the committee, thinking it would in the end facilitate the business of the convention. He hoped these personal feelings would not again be exhibited in this convention, but that business would now be allowed to proceed in order and without further molestation.

Mr. Ryan: The gentlemen, he supposed, alluded to him, because he had desired to set him right in relation to the votes of the convention. It made no difference in his mind what might be the opinion of individual members of the convention—that opinion was not and could not be spread on the journal, and he had been governed by what was spread on that journal. But he rose to reply to the gentleman from Brown. God had made some men with feelings and some without. Those he had made with them were apt to show them on proper occasions. Again, he would tell that gentleman that if he would take care of his feelings, he (Mr. Ryan) would take care of his.

If, said Mr. Ryan, I have shown feeling, it was feeling of the heart, not feeling manufactured for the occasion; and I appeal to this house if the gentleman did not show as much temper as I did; if he was not himself guilty of the same thing he condemned in me. No, but he says I am to look at the motives of the convention. How am I to know that motive, but by what they say? Can the gentleman spread these motives on the journal? If so, I cannot. He tells me of what he has said out of doors; that he has talked this matter over there. What care I for that? Why did he wait? Why did he not make the motion to increase the committee before this time? He cannot plead that he did not think of it for he says he did. I appeal, if the construction I place on the journal is not the only true one that can be given to it? That journal will show on its face that the convention condemned the formation of the committee and voted that it was incompetent for its duties. Gentlemen admit this in their arguments, but say that it does not apply or allude to the individuals composing the committee. No sir, that vote will show that the majority of the committee were to be swamped by the additional members. I shall conclude as I began, by saying that if there has been temper displayed by anyone here, I have not been guilty, but it came from the gentleman from Brown, and was got up for effect.

The President then named Mr. Steele, who asked to be excused on account of his being on two other committees. He was excused and the President appointed J. A. Barber.—*Argus*, Oct. 13, 1846.

Mr. Moses M. Strong could not consent to serve upon that committee after what had transpired. The gentleman of Racine thought the motion and the first vote were a reflection on him. The last vote was a direct insult. He could not and would not serve. He therefore asked to be excused. Granted.

Messrs. Marshall M. Strong and Steele were also excused.

The Chair then added Messrs. Agry, G. B. Smith, and Tweedy.

Mr. Baird had been named on that committee and he was willing to serve. He was sorry for what had been done. He was sorry that the gentleman of Racine so construed the vote of the house. He saw no reason for the gentleman's insisting upon his withdrawal, particularly after the explanations that had been given. He voted as he did because it was proper to increase the committee. It might well have been carried to thirteen. He had no interest to gain by exciting the feelings of any gentleman. He disclaimed all intentions of such a course now and henceforward. He hoped gentlemen would discard such feuds. The votes that had been given had no intent of incivility. Viewing it in this light, he hoped for the future that gentlemen would refrain from indications of feeling. He did not know who constituted the committee. He wished that it would exceed the number; it had so been expressed before the committee was announced and was understood before the convention assembled that a motion to that effect would be made. He thought the matter should be discussed in committee and there matured, and when brought into convention it would not occupy so great a length of time. His object was to expedite the business of the convention.

On motion the convention adjourned.—*Express*, Oct. 12, 1846.

Mr. Ryan wished leave to explain. The gentleman from Brown said he rose to set him right. He (gentleman from Brown) rose to set him wrong. He could keep his own feelings if the gentleman could take care of his. Some men were born with feelings, others with none. If he had feelings he should show them without asking leave of the gentleman from Brown. He did not display any temper but was naturally excited, not

temper that was got up for the occasion as the gentleman from Brown had. He should be guided by his own feelings in this matter; he was not aware that he had displayed any temper. He did not care what were the out-door cogitations of gentlemen. It was to be judged by the past in this case. It was not known, until the Chair announced, who should constitute that committee. It was found out after the committee was filled that it was necessary to increase the number, not before. It showed that it did not occur to the minds of any until the committee was reported that a greater number than five was necessary to mature the subject before them. It showed they thought the committee incompetent. They had half admitted it. It showed upon the face that the convention thought it expedient and proper to change the character of the committee by increasing it. The record would show this. It showed, and it would show nothing else, that they intended to swamp the committee. He was sorry so much feeling was manifested. He had merely explained the reasons that actuated him in his course.—*Democrat,* Oct. 10, 1846.

George B. Smith introduced the following resolution, which was read, to wit: "*Resolved,* That in adding four members to the judicial committee, it was not intended by the convention to cast any imputation against the five already appointed by the President."

On motion of Mr. Dennis the convention adjourned.

FRIDAY, OCTOBER, 9, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read, when Moses M. Strong moved to amend the journal by striking out the words "as amended" in the second line of the third page, in relation to the adoption of the resolution relative to printing, which was decided in the negative.

Moses M. Strong moved an amendment as follows: Strike out the words "as amended" in the resolution as amended to elect a printer in the journal of yesterday. He said they did not vote on the amendment as amended. The vote, therefore, on the election of printer was a nullity.

The Chair explained. The original motion was before the house, when an amendment was offered by the gentleman from Waukesha. The question was put on the adoption of the substitute, which was carried in the affirmative. The question then recurred on the adoption of the resolution as amended, which was carried. He thought this sufficient. If there was a technical flaw in the proceedings it had been overlooked by common consent and therefore concurred in by the convention.

Moses M. Strong thought the President should leave the chair if he wished to discuss the question.

The President did not wish to discuss the point.

Mr. Chase rose yesterday when they were prepared to vote on the question and made an inquiry as to the stage of the proceedings, and the explanation was satisfactory to him, and to all. They had proceeded and elected a printer; it was satisfactory to all except those who had failed to secure the success of a particular candidate.

Mr. Steele said the proposition was to make the journal read as the action of the house did not take place. He thought the way to alter action was at the time the matter was under consideration, not afterwards by amending the journal.

Mr. Baker thought there was a misapprehension of facts. The gentleman of Waukesha offered a substitute for his amend-

ment. The substitute was carried. The question did not occur on the resolution offered by him as amended.

The motion of Mr. Strong was put and lost.

Mr. Kellogg wished to know if there were any bonds required of the printer. The Chair said there was no provision for a bond. Mr. Kellogg thought that if the printer was to execute the printing of the journal as well as the incidental printing bonds should be given. The Chair was of opinion that the resolution only carried the incidental printing.—*Democrat,* Oct. 10, 1846.

Mr. Moses M. Strong called for the reading of that part of the journal which related to the election of printer, and it was read by the Secretary as follows: "The question then recurred on the adoption of the resolution as amended, and having been put, it was decided in the affirmative."

Mr. Strong moved to strike out the words "as amended" and contended that the journal did not contain the facts as they transpired. Mr. Gray introduced a resolution to let the printing to the lowest bidder. Mr. Baker yesterday offered an amendment to that resolution, providing that Benjamin Holt should do the printing. Mr. Elmore proposed a substitute for the amendment, providing for a vote for printer. The latter had been adopted by the convention as preferable to the amendment proposed by Mr. Baker; but they had not said that they preferred the amendment as amended to the original resolution. They had never voted whether they would let the printing to the lowest bidder.

The President: I may have omitted to put one question, which the gentleman spoke of at the time, and supposed it taken for granted that the question was conceded by the convention.

After a few remarks from Messrs. Steele, Chase, Strong, Baker, and the President, the motion to amend was lost.—*Argus,* Oct. 13, 1846.

Moses M. Strong objected to the portion of the journal of yesterday relating to the election of a printer, inasmuch as he

was under the impression that no such election was had, but the vote of yesterday was upon an amendment offered by Mr. Elmore to the resolution of Mr. Gray, so that this convention had not yet appointed a printer, and he would have the journal so corrected.

Mr. Chase thought the matter finally disposed of by the vote of yesterday and objected to any further waste of time in discussing the subject.

Messrs. Judd and Baker were opposed to the alteration.

Mr. Steele took the floor against the measure of Mr. Strong and, having in his remarks made some insinuation against the motives of the gentleman, was called to order by the President.

The motion was put and lost.—*Express,* Oct. 12, 1846.

Asa Kinne presented the certificate of election of Horace Chase, as a member of this convention from Milwaukee County, who upon his motion was admitted to a seat.

Mr. Elmore moved that William Holcombe be admitted to a seat as a member of this convention from the county of St. Croix, which was agreed to.

Mr. Elmore moved that Mr. Holcombe of St. Croix be allowed a seat in the convention. Mr. Holcombe was not in St. Croix at the time of his election, nor had he been there since to receive his credentials. As there was no doubt of his election, however, he hoped he would be permitted to take his seat at once.

Mr. Dennis thought this a novel mode of proceeding, to allow a man a seat in the convention in the absence of any proof of his election.—*Express,* Oct. 12, 1846.

Mr. Ryan, from the committee on banks and banking, reported No. 1, "Article relative to banks and banking."

"The majority of the committee on banks and banking beg leave to report to the convention for its adoption the following article:

"1. There shall be no bank of issue within this state.

"2. The legislature shall have no power to create, authorize, or incorporate, in any manner or form, any bank or other institution or corporation having any banking power or privilege whatever.

"3. The legislature shall have no power to confer, in any manner or form, upon any person or persons, corporation, or institution whatever, any banking power or privilege whatever.

"4. No person or persons, corporation or institution whatever shall, under any pretense or authority whatever, in any manner or

form whatever, make, sign, or issue within this state any paper money, or any bank note, promissory note, bill, order, check, certificate of deposit, or other evidence of debt whatever, intended to circulate as money; and any person or persons, or any officer or other agent of any corporation or institution so doing shall, upon conviction thereof, be fined in a sum not less than $10,000 and imprisonment in the penitentiary not less than five years.

"5. No person or persons shall utter, pass, or pay, or give, or receive in payment, any paper money or any bank note, promissory note, bill, order, check, certificate of deposit, or other evidence of debt whatever, intended to circulate as money, which shall purport to have been issued in this state, before or after the adoption of this constitution, by any person or persons, corporation, or institution whatever; and any person or persons so doing, shall, upon conviction thereof, be fined in a sum not less than $500, or imprisoned not less than three months, or both.

"6. No corporation within this state shall receive deposits of money, make discounts, or buy or sell bills of exchange, and any officer or other agent of any corporation so doing shall, upon conviction thereof, be fined in a sum not less than $5,000 and imprisoned not less than two years.

"7. It shall be the duty of the legislature, from time to time, as may be necessary, to pass all act and acts requisite to enforce any provision of this article.

"All of which is respectfully submitted.

E. G. Ryan, Chairman."

Which was read the first and second times.

The report of the committee was accepted and the committee discharged from the further consideration of the subject. Moses M. Strong moved that said report be referred to the committee of the whole and 150 copies thereof be printed. And the question having been put, it was decided in the affirmative.

Moses M. Strong moved that 2,000 additional copies of said report be printed for distribution, which was decided in the negative. And the ayes and nays having been called for and ordered, those who voted in the affirmative were [affirmative 42, negative 55; for the vote see Appendix I, roll call 5].

Mr. Ryan, as chairman of the committee on banks, made the following report * * *, which he observed met the approbation of all the members of the committee except one, Mr. Gibson, who dissented therefrom.

Mr. Gibson said he objected to the manner as he did to every letter of the matter of this report. He heard it said since he had been here that the Whigs would not have the privilege of voting in this body; he began to think such was meant to be the case. He thought that Whigs placed upon committees

would certainly be allowed to meet with that committee and take their share in the deliberations and preparation of the report. In this case he knew nothing of the meeting or action of the committee until called aside a few moments previous to the opening of the convention this morning, taken into a private room, and this report submitted for his approval. He took exception to this manner of preparing a report and also to every line, word, and letter contained in it. He should prepare and submit a minority report.

Mr. Ryan said he was unacquainted with the members of the committee. As its chairman he had prepared a report and submitted it to the committee singly. All had approved it save Mr. Gibson.

The report was accepted, and on motion was referred to a committee of the whole, and 150 copies ordered to be printed.

There was an ineffectual motion to print 2,000 copies of all the reports of the committees for distribution, which led to a warm debate between the "old" and "young" Democracy.

Mr. Judd objected to printing such a large number on account of the expense.

Moses M. Strong would have a large number of this report printed for circulation among the people, that they might see how their delegates to this convention voted upon this most important question. It was most proper they should know, inasmuch as there was a difference of opinion among the Democrats upon this question. There was a bank party as well as an antibank party among the Democrats here. He believed the Progressives were bank men, and he wished to show his constituents that he was an antibank man.

Mr. Gray was opposed to printing so large a number of the report; thought it a bad precedent to spend $175 for printing the report of each committee.

Mr. Kellogg thought this extravagance commenced yesterday, furnishing the members with newspapers, and as these papers would doubtless contain the reports of the committees, thought these quite sufficient for all purposes.

The question was put and decided in the negative—ayes 42, noes 55.—*Express,* Oct. 12, 1846.

Mr. Gibson said he dissented from the report of the committee. He did this for two reasons: First, the committee had not had a meeting, though he had seen the report in the hands of the chairman and had been told that a majority of the committee were agreed to it. He had supposed that the committee would have a meeting and discuss the matter referred to it, and not that the chairman would draw out a report and call the members into a room singly, and reading it, get their consent or dissent, and then report it as coming from the committee; second, he disagreed with the report in every letter, word, and sentiment. And he intended as soon as might be to make a minority report, if he could have leave to do so.

The President: You can have leave.

Mr. Ryan: It is true that I drew up this report last night, and at an early hour this morning I endeavored to procure a meeting of the committee and could find but a majority, who agreed with me. I subsequently found the gentleman from Fond du Lac and showed it to him, and he did not intimate that he desired to make a counter report or that he wanted time.

Mr. Moses M. Strong moved to print 150 copies for the use of the convention and 2,000 copies for distribution.

Mr. Judd called for a division of the question and asked for the ayes and noes on the motion to print 2,000 copies for distribution.

One hundred and fifty copies were ordered printed, and Mr. Strong, in support of his motion, said it was plain to any man that there was a bank party and an antibank party in the convention. I do not know to which party the gentleman from Fond du Lac belongs. But unless I am mistaken, a large body of that class calling themselves the "young" Democracy will be found acting with the Whigs in favor of banks, and not with the "Old Hunkers" against them.

Mr. Gray deemed the printing of the proposed number an unnecessary extravagance.

Mr. Chase opposed the motion to print, not so much from the sentiments of the report, with which he agreed, as from its unnecessary length. They were going to distribute this report

through the papers, which he deemed sufficient. He cared not where the gentleman from Iowa placed him, whether among the young or the old Democracy, the "Progressives" or the "Retrogressives"—one thing was certain, they would find him opposing banks at every step.

The motion to print 2,000 extra copies was lost, ayes 42, noes 55.—*Argus,* Oct. 13, 1846.

Mr. Gibson dissented from the report for two reasons: First, he supposed it was customary for the committee to meet together and compare views and discuss the several propositions there. But instead of this he had been called upon this morning, a few moments before the convention assembled, called out into one corner of the hall, and this report presented for his acceptance. He did not like such a manner of proceeding; and he objected to the matter as well as the manner. He objected to every word and letter of the report.

Mr. Ryan drew the report last night that the convention might have something to do today. He had shown it to the committee this morning, one by one, as he had found them, and it received their acquiescence. He read it to the gentleman last up—he dissented from it, but made no objection to reporting this morning. If the gentleman objected to every letter, he objected to the whole alphabet.

Moses M. Strong moved to refer to the committee of the whole, and that 2,000 copies be printed.

Mr. Judd suggested the second reading by its title.

M[oses] M. Strong said that it was the most important report that had been made, and he wanted it to go before the people. There was a bank party and an antibank party in the Democratic ranks; and in that portion styled the "Young Democracy" in contradistinction to the "Old Hunkers" the bank men were to be found. He was an out and out "hard", and if they were afraid of the effect of this report, he wanted the people to know it.

Mr. Judd thought, if this was the most able report yet made, when others, still more able should be made—for instance, the report of the gentleman from Iowa—they would have to vote a still greater number.

Mr. Kellogg was opposed to every species of banks, as his constituents were. He did not care to what part of the Democracy he was attached. But he was opposed to this extra printing.—*Democrat,* Oct. 10, 1846.

Moses M. Strong, from the committee on suffrage and elective franchise, reported No. 2, an article relative to suffrage and elective franchise.

"A majority of the committee on suffrage and elective franchise respectfully report and recommend the adoption as one of the articles of the constitution of the state of Wisconsin the following article on suffrage and elective franchise:

"Section 1. Every white male person of the age of twenty-one years, or upwards, who shall either be a citizen of the United States, or who shall have declared his intention to become such in conformity with the laws of Congress now in force regulating the subject of naturalization, and shall have taken and filed in the office of the clerk of the district court of the county in which he resides an oath to support the Constitution of the United States and of this state, and who shall have resided in the state six months next preceding any election, shall be entitled to vote at such election for every officer, which by this constitution or by law shall be elective by the electors; and every white male person of the age aforesaid who may be a resident of this state at the time of the adoption of this constitution by the people and who shall either be a citizen of the United States or shall have declared his intention to become such as aforesaid shall be entitled to vote as aforesaid; but no such person shall be entitled to vote except in the district, county, or township in which he shall have actually resided for ten days next preceding such election: *Provided,* That whenever Congress shall dispense with a declaration of intention as a requisite to citizenship, the same shall be dispensed with in this state as a qualification of electors.

"Section 2. All votes shall be given viva voce, except for such township officers as may by law be directed or allowed to be otherwise chosen; and in all elections to be made by the legislature the members thereof shall vote viva voce; and their votes shall be entered on the journal.

"Section 3. Electors shall in all cases except treason, felony, or breach of peace be privileged from arrest during their attendance at elections and in going to and returning from the same.

"Section 4. No elector shall be obliged to do militia duty on the day of election except in time of war, actual invasion, insurrection, or public danger; nor shall any elector on the days of election be obliged to attend any court, either as a suitor, witness, or juror.

"Section 5. No person shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state.

"Section 6. No soldier, seaman, or mariner in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed in any military or naval place within the same.

"Section 7. No member of Congress nor any person holding any office of profit or trust under the United States (the office of postmaster excepted), or under any other state of the Union, or under any foreign power, shall hold or exercise any office of trust or profit under this state.

"Section 8. No senator or representative in the legislature of the state shall, during the time for which he was elected, nor during one year after the expiration thereof, be appointed or elected to any civil office under the authority of this state, which shall have been created or the emoluments whereof shall have been increased during the time for which he was elected.

"Section 9. It shall not be lawful for any voter directly or indirectly to make any bet or wager on any election at which he shall vote, and it shall be the duty of the legislature to prescribe as a part of the oath to be taken by any voter that he has not directly or indirectly made any bet or wager on the election at which he offers his vote.

"All of which is respectfully submitted.

MOSES M. STRONG, Chairman
FRANCIS HUEBSCHMANN
HOPEWELL COXE
JOHN H. MANAHAN"

Which was read the first and second times. The report of the committee was accepted and the committee discharged from the further consideration of the subject.

Mr. Baker moved that 150 copies of said report be printed and that said report be referred to the committee of the whole, which was decided in the affirmative.

Mr. Moses M. Strong, from the committee on suffrage and elective franchise, reported an article on that subject.

Mr. Manahan said he had agreed to make this report, but should at an early day take occasion to report, or to amend some report, in relation to negroes and negro suffrage.

Mr. Burchard gave notice of intent to make a minority report.—*Argus,* Oct. 13, 1846.

A. Hyatt Smith, from the committee on the eminent domain and property of the state, reported No. 3, an article on the eminent domain and property of the state.

"The committee on eminent domain and property of the state have had under consideration the subject referred to them, and have the honor to report and recommend the adoption of the following article on eminent domain and property of the state:

"1. The legislature of this state shall never interfere with the primary disposal of the soil of the United States, nor with any regulation Congress may find necessary for securing the title in such soil to the

bona fide purchasers thereof. No tax shall be levied on lands the property of the United States; and in no case shall the lands of nonresident proprietors be taxed higher than residents.

"2. The state shall have concurrent jurisdiction on the river Mississippi and on every other river and lake bordering on the said state, so far as the said river or lake shall form a common boundary to the said state and any other state or states now or hereafter to be formed and bounded by the same; and the said river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence and the carrying places between the same shall be common highways and forever free, as well to the inhabitants of this state as to the citizens of the United States, without any tax, impost, or duty therefor: *Provided,* That no law shall be passed to take away or abridge the rights of riparian owners thereto, unless in the same law provision is made for full compensation to such riparian owners.

"3. All lands and other property which have accrued to the territory of Wisconsin by grant, gift, purchase, forfeiture, escheat, or otherwise shall vest in the state of Wisconsin.

A. Hyatt Smith, Chairman."

The report of the committee was accepted and the committee discharged from the further consideration of the subject. The report was read the first and second times, when Mr. Gray moved that said report be referred to the committee of the whole and that 150 copies thereof be printed, which was decided in the affirmative.

Mr. Crawford then moved that 1,000 additional copies of the report on banks and banking and of the report on suffrage and elective franchise be printed for distribution, which was decided in the negative. And a division having been called for, there were 24 in the affirmative, negative not counted.

Mr. Crawford moved that 1,000 copies each of the reports of Messrs. Ryan and Strong be printed.

Marshall M. Strong thought it was making a distinction in reports. Besides they would be reported in the newspapers, and that was the most convenient method of distributing them among the people. The motion was lost.—*Democrat,* Oct. 10, 1846.

Moses M. Strong gave notice that he would on tomorrow or some future day move the adoption of an additional rule for the government of this convention.

Moses M. Strong offered the following as an amendment to the rules:

Rule—Every proposition which it is proposed shall form a part of the constitution shall, after it shall have been consid-

ered in committee of the whole, and after the amendments reported by the committee of the whole shall have been acted on, be open for amendment in the convention; and when there are no further amendments to be proposed the question shall be on ordering the proposition to be engrossed for its final passage; and after the same shall have been engrossed, the same shall not be amended except by the unanimous consent of the convention.

Which, under the rules, lies on the table until tomorrow.

Mr. Judd moved for an adjournment until Monday next, which was unsuccessful.

John Y. Smith asked permission for the use of the hall for a temperance lecture to begin therein this evening by Mr. Fairchild.

Moses M. Strong opposed it as there were other rooms in the building to answer Mr. Fairchild's purpose and the members wished to use this chamber themselves.—*Express*, Oct. 12, 1846.

Moses M. Strong introduced the following preamble and resolution, which was read and laid over until tomorrow under the rule, to wit: "WHEREAS on the ninth day of October, as appears from the journal, a resolution introduced by Mr. Gray of Grant County on the sixth instant relative to printing was taken up when Mr. Baker of Walworth moved to amend the said resolution, providing that Benjamin Holt should be employed to do the incidental printing of this convention; and WHEREAS Mr. Elmore of Waukesha offered a substitute for said amendment, providing that a printer to the convention be elected forthwith viva voce; and WHEREAS the said substitute for the said amendment was adopted as a substitute for said amendment; and WHEREAS said amendment to said original resolution as amended by the adoption of said substitute was never adopted by the convention; and WHEREAS, therefore, the convention have never had an opportunity of expressing an opinion whether they preferred the amendment as so amended or the original resolution; and WHEREAS, therefore, the convention have never determined that a printer should be elected, therefore,

"*Resolved,* That a printer to the convention be elected forthwith viva voce, and the mode of conducting the election shall be by calling the names of the members from the list of ayes and noes, and every member shall answer the name of the person for whom he votes, and a statement of the vote and all its details shall be recorded at length on the journal."

Mr. Judd introduced the following resolution, which was read, to wit: "*Resolved,* That when the convention adjourn, it will adjourn until Monday morning next."

George Hyer introduced the following resolution, which was read, to wit: "*Resolved,* That 150 copies of all reports of committees and of all petitions and resolutions ordered to be printed [be printed] for the use of the convention without further order."

The following resolution, introduced on yesterday, was then taken up, to wit: "*Resolved,* That in adding four members to the judiciary committee it was not intended by this convention to cast any imputation against the five already appointed by the President." Mr. Judd moved that the said resolution be laid on the table, which was decided in the affirmative.

Mr. Warren Chase moved that the resolution calling upon the clerks of the different courts in the territory for certain information be now taken up, which was decided in the negative. And a division having been called for there were 19 in the affirmative, negative not counted.

Mr. Chase called up the resolution calling on the clerks of the different courts for certain information.

The resolution was read, and Moses M. Strong moved that it be laid on the table indefinitely (which means under the table) inasmuch as it was impossible to obtain the information sought for from the clerks of the courts. He knew it could not be done in Iowa County and he believed it to be as impracticable in other counties.

The resolution was laid on the table.—*Express,* Oct. 12, 1846.

Mr. Chase moved to call up the resolution relative to calling upon the courts for reports of their business. It was a motion of much importance, and he hoped it would be called up.

Moses M. Strong hoped it would be allowed to sleep on the table. It was impracticable—it could not be arrived at in less than three weeks, and it would only be an excuse for the committee to delay their report. It would in the end only amount to an imperfect detail of what every man knows in general terms.

The motion was rejected.—*Democrat,* Oct. 10, 1846.

Mr. Prentiss moved that leave of absence be granted to Mr. Rogan for one week. Leave was granted.

Mr. Judd moved that the convention adjourn until Monday morning next.

Mr. Ryan moved that the convention do now adjourn, which was decided in the affirmative. And a division having been called for there were 41 in the affirmative and 33 in the negative.

So the convention adjourned until tomorrow morning, ten o'clock.

SATURDAY, OCTOBER 10, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Wm. R. Smith, from the committee on militia, reported No. 4, "Article relative to the militia."

"Section 1. The militia of this state shall consist of all free, able-bodied male persons, negroes and mulattoes excepted, resident in the said state, between the ages of eighteen and forty-five years; except such persons as now are or hereafter may be exempted by the laws of the United States or of this state; and they shall be armed, equipped, organized, and disciplined in such manner and at such times as may be directed by law. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

"Section 2. The militia of this state shall be divided into convenient divisions, brigades, regiments, battalions, and companies, with officers of corresponding titles and rank to command them, conforming as nearly as practicable to the general regulations of the army of the United States.

"Section 3. Captains and subalterns in the militia, field officers of regiments, brigade inspectors, brigadier generals, and major generals shall be elected or appointed in such manner as shall hereafter be provided by law.

"Section 4. The governor shall appoint the adjutant general and other members of his staff. Major generals, brigadier generals, and commanders of regiments and separate battalions shall respectively appoint their own staff. All staff officers may continue in office during good behavior, and shall be subject to be removed by the superior officer from whom they respectively receive their appointment.

"Section 5. All military officers shall be commissioned by the governor.

"Section 6. The militia as divided into divisions, brigades, regiments, battalions, and companies, pursuant to the laws now in force, shall remain so organized until the same shall be altered, or regulated by the legislature.

W. R. SMITH, Chairman."

The report of the committee was accepted and the committee discharged from the further consideration of the subject. The said article was then read the first and second times, referred to the committee of the whole, and on motion of William R. Smith 150 copies thereof ordered to be printed.

Mr. Meeker, from the committee on internal improvements, reported No. 5, "Article relative to internal improvements."

"The committee to whom was referred the subject of internal improvements beg leave to make the following report:

"Internal improvements shall forever be encouraged by the government of this state. But the legislature shall in no case create or incur a state debt for that object, without at the same time providing means for the payment of the interest thereof, and the final liquidation of the same.

M. Meeker, Chairman
N. F. Hyer
J. F. Wilson
Wm. C. Green"

The report of the committee was accepted and the committee discharged from the further consideration of the subject. The said article was then read the first and second times, referred to the committee of the whole, and on motion of Mr. Phelps 150 copies thereof ordered to be printed.

Mr. Crawford introduced the following resolution, which was read, to wit: "*Resolved,* That all laws for the collection of debts shall forever be prohibited within this state."

Mr. Doty introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on the organization and formation [functions] of the judiciary be instructed to inquire into the expediency of providing in this constitution that the legislature at its first session after the adoption of the constitution shall provide by law for the appointment of three commissioners, whose duty it shall be to revise, reform, simplify, and abridge the statutes and the rules of practice, pleadings, forms, and proceedings of the courts of record of this state, and to report thereon to the legislature, subject to their adoption and modification."

The preamble and resolution introduced yesterday, relative to the election of printer, was then taken up, when Moses M. Strong asked and obtained leave to withdraw the same.

Moses M. Strong moved that his resolution in reference to the election of a printer by viva voce be taken up and considered.

On motion, the resolution was read.

John Y. Smith said it was with feelings of some delicacy he rose to say a few words upon this subject. Many gentlemen might infer that this proposition to reconsider the vote upon printer was liable to the construction that it was made at the instance of the proprietors of the *Argus,* in consequence of their defeat. He was fully convinced of the informality of the proceedings and was aware that many gentlemen would agree with him in this view. Yet he and all the proprietors of the

Argus were fully satisfied with the result of the election and had no wish to "try another scratch" for the printing of the convention. The object of the friends of this resolution was to place the proceedings of this body in a proper shape—it had no reference to the *Argus*. The resolution did not arise with the proprietors; they had no wish that the subject should be renewed. The election had been gone into and decided—it was not to be denied that the convention had elected a printer—they had done what they had previously resolved to do, and he was satisfied, as were all the proprietors of the *Argus*. They had received a majority of all the Democratic votes in the convention, which fully satisfied them in regard to the result. He thought it no more than proper to state, however—what everybody already knows—that this result was not brought about by the Democrats in this body, but by an amalgamation of the influence of Whigs, bank Democrats, conservatives, and no-party men. A few of the true and tried Democrats had voted against them he knew; yet he thought they would be sorry they had pursued such a course when they more fully understood the circumstances of the case. Among his opponents he was not surprised to find men who had gloried in their attachment to John Tyler—men who had defrauded this territory out of $30,000 and had judgments on their backs for the amount. He hoped the motion would not prevail.

Moses M. Strong said it was due to truth to say that the resolution originated with himself alone, without consultation upon the subject with any person whatever, and he wished the whole responsibility to rest upon his shoulders and not upon those of anybody else; his shoulders were broad, and were already tolerably burdened with responsibility; yet they were still capable of sustaining this and much more. He thought the circumstances attending the election called for this movement, and thought so still, but would withdraw the resolution out of respect to those Democrats who had voted against him on the question of printer.

Leave was granted, and the resolution withdrawn.—*Express*, Oct. 12, 1846.

The resolution introduced yesterday relative to adjournment was then taken up, when Mr. Judd asked and obtained leave to withdraw the same.

The following rule, introduced by Moses M. Strong, was then taken up and adopted, to wit: "Rule —. Every proposition which it is proposed shall form a part of the constitution shall, [after it shall] have been considered in committee of the whole, and after the amendments reported by the committee of the whole shall have been acted on, be open to amendment in the convention, and when there are no further amendments to be proposed the question shall be on ordering the proposition to be engrossed for its final passage, and after the same shall have been engrossed the same shall not be amended except by the unanimous consent of the convention."

Moses M. Strong moved the amendment to the rules offered by him yesterday be now taken up. Mr. Strong went into an explanation of the object of this amendment. It was that all resolutions should, after being amended and finally passed, be engrossed in a fair hand, for the final action of the committee on revision.

Mr. Ryan was of opinion that the lines had not been, nor could be, so distinctly drawn between the duties of the different committees that their reports would not in many cases cover the same grounds; propositions would come in from other committees covering the grounds already reported upon. And he considered it would be the proper duty of this committee on revision to sift out, examine, and prepare a perfect synopsis of all the business of the convention.

Moses M. Strong said propositions would be introduced and referred to a committee of the whole before the final action upon them in convention. It was the object of this rule to have these propositions with all the amendments thereon inserted in their proper places, and then engrossed in a plain hand for the revision of the committee, instead of the plan now pursued of tacking the several amendments to the original proposition with a bit of wafer, which was liable to become detached and the amendments lost or mislaid. He considered this a loose way of keeping a record of the doings of the convention and would like to see it done away with.

Mr. Ryan called for another reading of the resolution.

Mr. Judd said he agreed with the member from Iowa that the amendment was right and proper; the subject matter contained in the amendment had not escaped the attention of the committee to whom was entrusted the duty of drafting the rules; and he thought the sixteenth rule adopted by the convention covered the ground of this amendment.

The question on the adoption of the amendment was put and carried.—*Express,* Oct. 12, 1846.

The following resolution, introduced yesterday, was then taken up and adopted, to wit: "*Resolved,* That 150 copies of all reports of committees and of all petitions and resolutions ordered to be printed be printed for the use of the convention without further orders."

On motion of Mr. Ellis the convention adjourned.

Mr. Moses M. Strong moved that the convention resolve itself into a committee of the whole on the article on banking, and Mr. Wm. R. Smith hoped the motion of the gentleman would not prevail. He was opposed to the provisions of the article, which made banking criminal and enacted a penalty. To enact a penal code was the legitimate business of a legislature and not of a convention. To remove these objectionable features he would move to refer the article to a select committee with instructions to strike out the penalties.

Mr. Chase: The motion to refer is out of order, as it is already referred to the committee of the whole.

But he should oppose going into committee at this time because he wanted the report of the minority of the committee, which had been promised, and which he supposed would be ready by Monday next.

Mr. Ryan was in favor of delaying till the minority can make a report: While up, I will take occasion to say a few words in support of the report itself, seeing that it has been attacked by the gentleman from Iowa (W. R. Smith) because there are penalties attached to its violation. This, I am told, is an unheard of thing in framing constitutions. Let that gentleman look into any of the constitutions of the states, or of the United States, and he will find precedents for these provisions. I have examined nearly all of them, and I find similar provisions. I will read them if the gentleman desires to hear them. Then

there is precedent; but if there were none, could not this convention step out of the usual track and attach a penalty to a breach of the constitution? Constitutions are made to restrict and restrain legislators, as well as to protect the citizen. Therefore, when you would limit the legislature, you place the provision in the constitution; when you would prohibit the passage of laws, you place the prohibition in the constitution; and when you would restrict, it is placed in the constitution. I hope this convention has a decided majority of "hards"—of men who are opposed to all banks, banking, and bank paper. But who can tell when there will be a "soft" legislature? Let a "soft" legislature come into power, and the penalties will at once be put down so that it will be for the interest of any corporation to pay the fine for the sake of the money they can make. The law will be as "soft" as it is now, when any company may be ready and willing to pay $1,000 a year for the privilege. Leave the question open, and the halls of legislation will be beset with "softs" asking for privileges, bitterly complaining that high penalties cannot be paid, as the business of banking is not as good "as it used to was." Give us low penalties, and we will pay them. I would place these restraints, limits, and penalties where the "softs" cannot reach or reduce them. I fear the "softs." They cannot be killed. The hundred heads of the hydra might be lopped off, but the "softs" have no heads. They spring up on every hand; they sway and govern the legislatures. Look at the new states—democratic, "hard," as are the body of the people; see how the "softs" have carried all their measures and involved the people. Let it not be so in Wisconsin. Place the penalty where the "softs" cannot reach it. Before I will consent to have the penalty reduced, I will vote to increase it. I belong to that party which would give to banking no quarter.

Mr. Moses M. Strong would postpone the matter until Monday, which would, he thought, give ample time to the gentleman from Fond du Lac, Mr. Gibson, to make his report. His colleague has made a remark against this article which he could not consent to let pass unnoticed. He, Mr. Wm. R. Smith, opposes the article because it contains a penal enact-

ment. The propriety of those penalties has been abundantly proved by the gentleman from Racine. Why should the article be sent to a select committee to make a report? Is the gentleman who is here as the representative of a most decidedly "hard" constituency who give no countenance to banks or bank paper desirous of distinguishing himself by making a "soft" report? If the convention wish to strike out the provisions they can as well be done in committee of the whole as in a select committee. Mr. Strong concluded by withdrawing his motion to go into committee, and the convention adjourned.—*Argus*, Oct. 13, 1846.

Moses M. Strong moved that the convention go into committee of the whole on the report of the committee on banks and banking.

W. R. Smith was in favor of the report being submitted to a select committee before going into committee of the whole upon it. He was of opinion that the report was objectionable in regard to affixing penalties, as that power should be more properly vested in the legislature.

Mr. Chase said the report had already been referred to the committee of the whole, but he did not consider the proper time had arrived for such action on the report. The minority members of the committee had given notice of intention to make a minority report, and it was due in courtesy to those gentlemen to wait until such report was submitted.

Mr. Ryan assented to the remarks of the last gentleman, that it was proper to wait the minority report before going into committee of the whole, but would say a few words in regard to affixing penalties being beyond the limits of the duties of this convention and confined to the legislature. He knew the committee had not exceeded their power in this respect. The Constitution of the United States and of every state in the Union contained clauses of this character—Florida, Texas, and the constitution of every state which he had yet seen embraced penalties; authority and example can be found in every constitution. It was his wish that the constitution of Wisconsin should be an independent one, made by ourselves and for our-

selves, only taking the lights and experience of the older states for our guide. It was not until the gentleman from Iowa mentioned the subject of penalties that he thought of looking into the constitutions of other states for authority, but he had since glanced over them and found such authority in every one of them. He wished this constitution in a great measure to be the law, without reference to the legislature; he hoped and believed this convention is a "hard" one, and they should not limit the power of the convention in such a manner as to enable any future "soft" legislature to put down penalties without violating the constitution. He intimated the probability of future "soft" legislatures being influenced by interested lobby monopolists and bank men who will haunt this place session after session to reduce the penalty to a mere nominal sum, but, as he was one of the "hards," would be willing to raise it to $100,000 instead of $10,000.

Mr. Ryan was violently opposed to any banks and profuse in his favorite phrases of "hards," "softs," and "lobby beggars"; and after reiterating his fears of the corruption of all future legislatures, and his willingness to affix the penalty for "making, signing, or issuing within this state any paper money, bank note, promissory note, bill, order, check, certificate of deposit, or any other evidence of debt whatever, intended to circulate as money," $100,000 or imprisonment for twenty years, sat down, evidently much pleased with himself.

Moses M. Strong withdrew his motion to go into committee of the whole, but gave notice that he should renew it on Monday, which he said was allowing the minority sufficient time to prepare their report, as five minutes had been found long enough to prepare the majority report. He disagreed with his colleague in regard to submitting this report to a select committee. The committee of the whole were as competent to decide upon it as any select committee. He did not favor the idea of endeavoring to smother it in the secret chamber of a select committee.

Moses M. Strong moved that the convention go into committee of the whole on elections and suffrage, which he afterwards withdrew for the same reason as above.

Moses M. Strong moved that the convention go into committee of the whole on the eminent domain and property of the state.

Marshall M. Strong remarked that sufficient time had not been allowed to compare the report with the provisions made on the subjects by other states, and he therefore hoped the matter would be further postponed.—*Express,* Oct. 12, 1846.

MONDAY, OCTOBER 12, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read.

Mr. Bevans presented the certificate of election of J. Allen Barber, a member from the county of Grant, who upon his motion was admitted to his seat.

Also the certificate of election of James Gilmore, a member from the county of Grant, who upon his motion was admitted to his seat.

Mr. Burchard presented the certificate of election of Benjamin Hunkins, a member from the county of Waukesha, also the certificate of election of Alexander W. Randall, a member from [the county of] Waukesha, who upon his motion were admitted to their seats.

Mr. Whiteside presented the certificate of election of Franklin Z. Hicks, a member from the county of Grant, who upon his motion was admitted to his seat.

Rufus Parks, a member from the county of Waukesha, presented his certificate of election, which was ordered to be filed.

Mr. Graham presented the certificate of election of James Magone, a member from Milwaukee County, who upon his motion was admitted to his seat.

Moses M. Strong: I wish to call the attention of the convention to a report of some of my remarks contained in the *Democrat* newspaper of the tenth instant. I am reported in that paper as having said while speaking of my constituents: "They were all interested in the proceedings of this convention, and every man fit to have a paper took one." Now, sir, I never said any such thing. If I had, it would have been tantamount to saying that every man who did not take a paper was not fit to have one. What I did say in substance was that all who felt interested in the proceedings of this convention would find some means of finding them out, and that every man who saw fit to have a paper took one. I should not have troubled the convention with this explanation, were it not that I have heretofore, while a member of the legislature, been misrepresented several times, without of course any intention of doing me injustice on the part of the reporters. While up, I wish to suggest that mistakes of the kind I have alluded to might be in a great degree avoided if the reporters would give

gentlemen an opportunity of examining their remarks after they are written out and before they are in type.—*Argus,* Oct. 20, 1846.

Mr. Judd, from the committee on taxation, finance, and public debt, reported No. 6, "Article relative to taxation, finance, and the public debt."

"The committee on finance, taxation, and public debt respectfully report for the adoption of the convention the following propositions:

Taxation

"1. All taxes to be levied in this state, at any time, shall be as nearly equal as may be.

"2. All public lands or other property situated and being within this state, belonging to the United States, shall be free from taxation.

"3. All lands or other property belonging to this state shall be forever free from taxation.

"4. All school lands, university lands, and all other property belonging to any school, university, college, or seminary of learning, situated and being within this state shall be forever free from taxation.

"5. All houses erected for and dedicated to the public worship of God, and the lots which they necessarily occupy for such purpose, and all public burying grounds, and all parsonage houses and the lands connected therewith, to the value of $2,500, shall be forever free from taxation.

Finance

"1. No money shall ever be paid out of the treasury of this state, except in pursuance of an appropriation by law.

"2. The credit of this state shall not, in any manner, be given or loaned in aid of any individual, association, or corporation.

"3. There shall be published under the direction of the treasurer in at least one newspaper printed at the seat of government in this state, during the first week in January in each and every year, a detailed statement of all the money drawn from the treasury during the preceding year, for what purpose, and to whom paid.

"4. There shall not at any time be issued, in any form or manner, under the authority of this state, any state scrip, certificate, or evidence of state debt, except for such debts as are authorized by the second and third sections of article —— in this constitution.

Public Debt

"1. No public debt shall at any time be created in this state, except such as is authorized in the following sections of this article.

"2. This state may, to meet accidental deficits and failures in revenue, or for expenses not provided for, contract debts; but such debts,

singly or in the aggregate, shall not at any time exceed $50,000, unless in time of war, to repel invasion, or to suppress insurrection and rebellion.

"3. Except the debts specified in the second section of this article, no debt or liability shall be contracted by or on behalf of this state, unless such debt shall be authorized by law for some single work or object to be distinctly specified therein. Nor shall such law take effect until it shall, at a general election, have been submitted to the qualified electors of this state for their approval or disapproval and shall have received in its favor a majority of all the votes cast at such election upon that subject.

"No such law shall be submitted to be voted upon within less than three months from its passage; nor when any other law or any amendment to the constitution shall be submitted to be voted for or against.

"All which is respectfully submitted.

STODDARD JUDD
ANDREW BURNSIDE
JOSHUA WHITE
PATRICK TOLAND
CHAUNCEY KELLOGG"

The report of the committee was accepted and the committee discharged from the further consideration of the subject. The said article was then read the first and second times, referred to the committee of the whole, and ordered to be printed.

Mr. Judd, as chairman of the committee on finance, taxation, and the public debt, would submit the report of that committee, and would premise the report by saying that the committee were of opinion that the subjects submitted for their consideration should have been named in the following order, viz., taxation, finance, and the public debt, and in that order would offer their report.—*Express,* Oct. 20, 1846.

Mr. Gibson, from the committee on banks and banking, made a minority report, No. 1, "Article relative to banks and banking."

REPORT OF THE MINORITY OF THE COMMITTEE ON BANKS AND BANKING

"Mr. Gibson, one of the committee, dissents from the report of the majority of said committee and begs leave to offer the following reasons for dissenting therefrom: First. Because the said report was prepared by the chairman of said committee without consulting with the other members of the committee and without having called them together or ascertained their opinions upon the subject committed to them. Second. Because the said report recommends the adoption of a provision in the constitution forever prohibiting either the legislature or

the people of the state from establishing any bank or moneyed institution. Third. Because the said report recommends the adoption of a provision in the constitution which is unusual and without a precedent, namely, the infliction of fines and imprisonment.

"For the above and other reasons the undersigned dissents from the said report, and as a substitute therefor would submit the following article:

"First. There shall not be established or incorporated within this state any bank or banking company or any moneyed institution for the purpose of issuing bills of credit or bills or notes payable to order or bearer, or certificates of deposit intended for circulation, unless chartered by the legislature; and no act of incorporation shall be passed, unless approved of and passed by at least two-thirds of the members of each house of the legislature of this state. Nor shall any such bank go into operation or commence business until at least one-third of its capital stock shall be paid in in gold or silver coin.

"Second. All stockholders in any bank chartered in this state shall be personally liable for all debts and liabilities of the said corporation.

M. S. Gibson."

The said article was then read the first and second times, referred to the committee of the whole, and ordered to be printed.

Mr. Dennis introduced the following resolution, which was read, to wit: "*Resolved,* That the treasurer of the territory be and he is hereby requested to report to this convention what amount of moneys has been received by him by virtue of a resolution in relation to canal funds, approved February third, 1846; what disposition he has made of the same; and how much there is in his hands subject to the order or control of this convention."

Mr. Burnside introduced the following resolution, which was read, to wit: "*Resolved,* That the following provisions shall be added to and shall constitute a part of the twelfth rule for the government of this convention, viz., 'But when the final vote shall be taken upon each distinctive provision in the constitution, it shall invariably be by the ayes and noes.' "

Mr. Beall introduced the following resolution, which was read, to wit: "*Resolved,* That 150 copies of the census taken recently in this territory be printed for the use of the members of this convention."

Warren Chase introduced the following resolution, which was read, to wit: "*Resolved,* That taking life, either by hanging or otherwise, shall never be instituted as a mode of punishment for crime in this state."

Mr. Goddell introduced the following resolution, which was read, to wit: "*Resolved* That the clerk of the supreme court and the clerks of the district courts in the counties of Dane, Milwaukee, and Racine, and the registers in chancery in said counties be and they are hereby requested to furnish for the information of this convention a statement showing:

"First. The number of suits commenced in their respective courts during the year ending on the first day of October, 1846.

"Second. The number of trials had and suits disposed of.

"Third. The amount of money collected during the same term, exclusive of cost[s].

"Fourth. The amount of costs and fees charged in the business of their respective courts during the same time, by clerks, registers in chancery, sheriffs, and all other officers of their respective courts, witness' fees, jury fees, and the amount of attorneys' fees, as near as they can estimate the same."

Mr. Willard introduced the following resolution, which was read, to wit: "*Resolved,* That a select committee of five be appointed to inquire into the expediency of establishing a court to be styled a court of reconciliation, and that the committee do report thereon."

Mr. Dennis introduced the following resolution, which was read, to wit: "*Resolved,* That a select committee, to consist of nine, be appointed, to whom shall be referred all the expenses of this convention."

George Hyer introduced the following resolution, which was read, to wit: "*Resolved,* That in submitting the constitution to the people of the territory for their approval, the question—Shall the right of suffrage be extended to negroes?—shall also be submitted as a distinct proposition, to be voted upon in like manner, and such vote shall determine that provision of the constitution which makes color a distinction in the extension of the elective franchise."

Mr. Prentiss introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on the constitution and organization of the legislature be directed to inquire into the expediency of apportioning the members of the legislature among the several counties in such manner that they shall be chosen by single districts."

Mr. Huebschmann introduced the following resolution, which was read, to wit: "*Resolved,* That a select committee of three be appointed to report to this convention an article supplementary to the constitution, providing for the submission to a separate vote of the people, at the same time with the constitution, the question of giving the right of suffrage to the colored population."

Mr. Magone, by leave, introduced the following resolution, which was read, to wit: "*Resolved,* That the secretary be and he is hereby instructed to furnish to the postmaster at Madison a list of the members of this convention, and that three members of this convention be appointed a committee to ascertain and provide the ways and means to defray the necessary postage of members."

The resolution introduced on the tenth instant relative to the collection of debts was then taken up, when Mr. Crawford moved its reference to a select committee of five, which was agreed to.

The President announced the appointment of the following committee to whom said resolution was referred, to wit: Messrs. Crawford, French, Parkinson, Warren Chase, and Bowker.

Mr. Crawford's resolution came in order and was taken up. Mr. Crawford thought himself called upon to say something on this subject, was actuated by the best motives in offering it,

and hoped the convention would bear with him until he explained its object. Mr. Crawford went on to say:

In presenting this resolution I was not actuated by any motive but the public good. In taking into view the enormous expense unnecessarily made in the collection of debts is what actuated me to urge a resolution of this nature. What little experience I have had in business satisfies me that the resolution is proper and just and should be adopted. Some gentlemen will say the time has not yet arrived for a resolution of this nature, but think it will arrive. To them I would say, we do not frame a constitution every day, nor every year. I will mention the state of New York, for instance, where I have done business most of my life. I will suppose—and it is mostly guesswork, not having any documents of this nature before me—that the expense in each town and ward per week for small, petty lawsuits before justices of the peace, unnecessary, will at least amount, on an average, to fifty dollars. Fifty-two weeks in a year swells the amount to $2,600 per annum. Now, sir, there are over eight hundred towns and wards in the state of New York, and this calculation, if correct, will amount to $2,080,000. Supposing New York to be one-sixth of the United States—and I believe it is no more than that—and each state incurs the same unnecessary expense, it will amount to $12,480,000 per year. Nor, sir, is this more than a small share of the expense. In the small towns, where justices' courts are held, there are always more or less jurors called upon from their business, and must attend, be the damage ever so great to them, for the small sum of six or twenty-five cents—as the case may be—and not get that either. And in addition to that this little excitement is the cause of leading many others to those places to satisfy their curiosity, when they would, otherwise, be about their legitimate business. This, sir, does not comprehend the courts of record; neither am I able to lay before you any estimate of the various higher courts. If I possessed the information I should be very happy to lay it before this honorable body. My views upon this subject are that it will, in a measure, put a stop to the credit system, which I consider a very great curse to both debtor and creditor. But in the end it will

have a glorious effect, for it will place men upon their honor and stop a practice that I have seen, of a certain set of men urging litigation for the sake of making a living out of it. We have plenty of land in this territory for justices, constables, jurors, witnesses, and pettifoggers to employ themselves upon, in cultivating it, with more advantage to themselves and the country at large, than by litigating. I am very certain, Mr. President, that were I able, or could I furnish this convention with an account of the unnecessary costs that have accrued in various ways in the collection of debts, that would far exceed the amount here presented. And, sir, I do believe it would go ahead, or very nearly come up to, the amount collected while those costs were accumulating.

Sir, as I have before remarked, it will throw men upon their honor, and an honest man will have no trouble in getting all necessary accommodations. And I for one, sir, as a member of the convention, have no desire to hold out any great inducements for dishonest men to settle among us, for, sir, there will as many of them settle among us as we need without any such inducement. I am not one of those that wish to proscribe any set of men altogether; some may think this resolution will clog the adoption of the constitution by the people; I don't think so. Our present laws, sir—although we are not sent here to make laws—we are sent here to make a foundation for laws, and, sir, if I am not digressing from the subject and out of order—if I am, I wish to be called to order—shall I go on and make one remark? (Go on, go on.) Our present laws are so defective, or liberal, that the defendant, if he does not defeat the plaintiff in the suit when trying to collect an honest debt, in nine times out of ten he will defeat him on execution. If that is true, then throw men upon their honor by passing this resolution.

Mr. President, supposing the above amount of nearly twelve and a half millions of dollars, or an apportionment of it agreeable to the population fifty years ago, had been applied to the support of common schools, what would have been the result? Why, sir, the result would most likely have been that I should not have been here advocating the passage of this resolution without understanding the English language. Education I con-

sider to be the bulwark of republican institutions, and I believe there is not a member of this convention who will differ with me upon that subject. You will see, Mr. President, that what I have here figured down does not include anything but the small courts; the courts of record would likely double the amount. I have talked with gentlemen of high attainments upon this subject, and they all say that my estimate is far too low. Speaking of our present laws, I have known men, sir, that at night had a sign up for peddling goods, and the next morning you would see another sign up, or the old one painted or lettered anew in some friend's name—I should think in order to evade some creditor. And I would appeal to any gentleman upon this floor, if that very thing does not go to show that our collection laws are calculated to encourage dishonesty. And if gentlemen view this in the same light which I do, they will go in for the passage of this resolution. Mr. President, one reason I give for speaking of our present laws is that if this resolution does not pass we shall have a new code of laws made for the collection of debts, which, I have every reason in the world to believe, will be no better than the present one, most certainly if we send here a "progressive" Democratic legislature. And, sir, in taking this view of the subject of this resolution, if it does not pass I think I can look ahead and see a code of laws passed for the collection of debts that might very well be compared with a law of the United States that makes it trespass to squat or settle upon the public domain—a dead letter. Such useless laws we do not want our statute book lumbered up with. The collection laws we shall have if this resolution does not pass will destroy the natural confidence between man and man, and the debtor will say to the creditor (if he so construes the law) "You hold a rod or iron over me, and you may make the best use of it you can; I do not consider myself honorably bound to pay it." And it is very easy for a great many to make up their minds that a debt in this way, crowded with a back-load of costs, is not very honorable. Some gentlemen may think it is premature, or too soon to pass this resolution, but think it will do by and by; they think the people are not ready for it. If they are not, it is time they were looking into the subject. Others may say,

again, that the resolution would more properly be a subject of legislation, and not incorporated in the constitution. Now, sir, if this subject was left to the legislature, and a "hard" legislature should pass a law to correspond with this resolution, at some future time, even the next year, we might have (it is hardly probable, however) a "soft" legislature. What would be their first act? Why to repeal that law; and our laws upon this important subject might be altered or knocked into a cocked hat every year. With these remarks, I have given all the information I possess, and my own views, as far as I am capable, and can only assure the convention that it has come from an honest heart upon that subject. In conclusion I would say, if we were able to form a constitution possessing one of the human senses—that of seeing, the power of understanding, or the faculty of speaking—and after its adoption by the people it would say, "Come under my wings and I will protect you," and say to the whole people, "There is a patriot and there is a demagogue," some coons would lose their tails.

Mr. Crawford closed by moving that the resolution be referred to a select committee of five, which motion prevailed, and the following gentlemen were appointed by the Chair as said committee, viz., Messrs. Crawford, [Warren] Chase, Parkinson, Bowker, and French.—*Express,* Oct. 20, 1846.

The resolution introduced on the tenth instant in relation to the practice in the courts of record of this state was then taken up, when, on motion of Mr. Beall, it was laid on the table.

Mr. Doty's resolution came next in order and was taken up and read.

Mr. Beall said he wished to make a few remarks upon the subject of this resolution, but considered the time not yet arrived for the convention to act in regard to this matter, and therefore moved that it be laid on the table.—*Express,* Oct. 20, 1846.

George B. Smith moved that the resolution introduced by him on a previous day of this session, in relation to adding four additional members to the judiciary committee, be now taken up, which was agreed to, when Mr. Smith, by leave, withdrew the said resolution.

Marshall M. Strong moved that the convention resolve itself into committee of the whole for the consideration of No. 1, "Article on banks and banking," and also upon the minority report upon the same, which was agreed to, Mr. Baker in the chair. And after some time spent therein the committee rose and reported progress upon the said article and asked leave to sit again thereon. Leave was granted.

On motion of Moses M. Strong the convention adjourned until two o'clock P. M.

Mr. Strong of Racine moved to go into committee of the whole on the reports on banks and banking.

Mr. W. R. Smith said it was with reluctance that he rose to detain the convention a single moment. He was in favor of going immediately into committee of the whole; but it was a matter of necessity for him to say a few words in reply to the remarks of certain gentlemen on Saturday. He took this occasion to place himself in a proper position, and to relieve himself from a false position in which he had been placed and in which he could not consent to remain at the ipse dixit of any man. It would be remembered that the report was received and the committee discharged, and that a notice of a minority report was made. The report was referred to the committee of the whole and ordered to be printed. Until it was printed its crudities and imperfections were not discovered. He then, as he had an undoubted right to do, moved to refer it to a select committee. The committee had been discharged from the further consideration of the subject. There was no other committee to refer it to. He did not now intend to renew the motion; he was ready to vote for the motion to go into committee of the whole. He considered that the remarks in reference to his motion for a select committee ungracious and uncalled for; because he had said he would go as far as any man—as far as his colleague, or the gentleman from Racine. He would go as far as the real Democracy were willing to go. He was asked why refer it to the secret conclave of a select committee. His colleague was better acquainted with these secret conclaves than he was. He had nothing to do with them. He wished to refer it to a select committee. Did the gentleman fear such committee? If he felt so he did not envy him his position. But his colleague had asked, "Does my venerable colleague recollect

the responsibilities he is under to the constituency who sent him here?" He would answer aye! He was able to bear that responsibility. In recollecting his responsibilities as representing a hard currency people he had other responsibilities to discharge. He did not come here to represent a single district. He would do injustice to his constituents not to represent his district, but a higher responsibility rested upon him of representing the whole people of Wisconsin. Members forgot they are here to represent the whole territory—that they are not here for mere local legislation. He, in connection with his colleagues around him, were the representatives of the whole people.

Perhaps the arrows and darts that had been thrown, like boys hurling stones among a crowd to see whom they would hit, might be thrown to see who would cry out, or that the question might be asked "Who is hurt?" Any such attacks as "hards" and "softs" failed in their effects on him. He was invulnerable. They could not affect him. There were some who wished to assume to be leaders. He would tell gentlemen he acted upon one principle—the gentlemen had read it at school—"*Nullius addictus jurare in verbum magistri.*" In plain English—I pin my faith to no man's sleeve; I follow no party leader's call. He had heard some things about "young" and "old" Democracy. He had acted with the Democratic party before his colleague was born. He expected to hear more about tadpoles in this convention. There was nothing in a name, but for the source from which it came it was only necessary to refer to another quotation—"*Mutato nomine, de te fabula narratur*"—change the name and they may apply it to themselves. He thought it the very essence of Old Hunkerism. They were floundering in the mud at the bottom of the pool, and never rose up into the clear water. When the mass of the people was in motion some were of necessity in the front, some in the center, and some in the rear. Those who were in the front might assume, or suppose themselves leaders, when the truth was the people were only driving their leaders before them. He had acted so many years on his own hook that he could not now be forced into the traces with his colleague behind him as a driver or before him as a guide.

The gentleman need not waste his powder in squibs on him; he better reserve his ammunition for other occasions when he might need it. He wished to add a word in reply to the gentleman from Racine. He said that in looking at the good-humored face of the gentleman from Racine he was disarmed. But he was about to remark that the gentleman in applying such terms as "softs" to him did not sufficiently know him or his political course and sentiments; and without such knowledge such application of terms might possibly proceed from something softer than its meaning in the history of Missouri politics. But in due time the gentleman would be called on to defend the position he had taken, that in the Constitution of the United States and of the several states pains and penalties were made the subject of constitutional enactment. For his part he denied the position and was prepared to prove to the contrary. Mr. Smith closed by asking if the gentleman from Racine had not been a bank man a few years since, and was not the author of certain newspaper articles in favor of banks.

Mr. Ryan said the last statement was absolutely and totally untrue.

Mr. Strong of Iowa should not be restrained by the apparent good humor of his colleague. He respected and venerated age, but he venerated principle more than age, however venerable he that wears it. He thought he saw an attempt to smother his report. He charged it then; he charged it now. The penalties of the bill were its beauties. He would not give a rush for it without the penalties. The first "soft" legislature would enact soft penalties, and every loophole which bankers would wish would be left open. If he had been ungracious, he still must be ungracious. The gentleman said he "came to represent the whole people." Then of course he represents Milwaukee; and like some of her representatives in the legislature would cry "Do let alone our dear little Fire and Marine Insurance Company." He (Mr. Strong) represented in one sense the whole people. But he represented them on Democratic principles and on "hard" principles. We determine by those who fluttered who were hit. If he had hit anyone, he hoped they would take it. He did not seek to be leader. Whether he was

ahead or behind, he was in favor of incorporating penalties into the constitution and not leaving it with the legislature.—*Democrat,* Oct. 17, 1846.

A word to the gentleman from Racine, and he (General Smith) had done. The gentleman had said much of "hards" and "softs." These were terms he could not understand, nor had they any place in his vocabulary. He was going to say if those who opposed the report of the majority were "softs" (but he would not make the remark) that the report came from something "softer." He has told us that he has precedents for the imposition of these penalties—crudities I call them. I shall call on him to give them to the convention.

Mr. Ryan: I will answer the gentleman by referring him to some twenty-nine constitutions found in the book of constitutions. I am told that the shots that flew about this convention have not struck the gentleman from Iowa (Mr. Smith). No, his broad shoulders are covered with an invulnerable armor, and no shots, however pointed or powerful, can reach him.

Mr. Smith: I will ask the gentleman, for I have been so informed, if he is not the author of certain articles in favor of banking that made their appearance not long since in a newspaper?

Mr. Ryan: It is untrue.

His (Ryan's) practice had been, when he found water running, to believe that there was the spring, unless he could trace it farther. The gentleman from Iowa had made the statement, and he should leave him to trace it as far as he pleased.

Mr. Moses M. Strong said he wished to make a very short speech for his constituents. This morning an issue had been made up between his venerable colleague, General Smith, and himself, and he wished his constituents who were to decide that issue distinctly to understand it. His colleague opposed the proposition contained in the original report; he supported it. His colleague supported his own amendment; he opposed it; and he now wished his constituents to understand the difference between the proposition, that they might be able to decide between them. This was the difference: The original proposi-

tion prohibited the circulation of all bank notes issued within this state, and there are none except the bills of the Milwaukee Insurance Company; while the proposition of his colleague did not prohibit their circulation, it was silent on the subject. The original proposition prohibited all corporations, whether now in existence or hereafter to be created, including of course the Wisconsin Marine and Fire Insurance Company, at Milwaukee, which he supposed it was particularly aimed at, from doing banking business, such as receiving deposits of money, making discounts on loans, buying or selling bills of exchange, etc., etc.; while the proposition of his colleague did not prohibit any corporation from doing that kind of banking business, it was entirely silent on the subject. The original proposition placed penalties in the constitution for the making, signing, or issuing any paper money or other thing intended to circulate as money, by any person, corporation, or institution; for circulating any paper money, or other thing intended to circulate as money issued in this state; upon any officer or agent of any corporation which should receive deposits of money, make discounts or loans, or buy or sell bills of exchange; while the proposition of his colleague did not provide any penalties whatever in the constitution, but proposed to leave the whole subject to the future legislature of the state.

Now he supposed the effect would be just this: If the legislature should provide no penalties, individuals or corporations might do any kind of banking business or circulate any kind of paper money, and although for doing certain kinds of banking business they would nominally violate the constitution yet they would incur no penalty for such violation; and if the penalties should be slight, a corporation doing an extensive banking business could well afford to pay them as often as they were inflicted. But again, although a "hard" legislature (which it is probable our first one will be) might impose severe penalties, yet in the fluctuations of party a "soft" one might come in power and soften down the penalties or abolish them altogether. He was in favor of having the constitution itself secure the people effectually against all the dangers and evils of banking and paper money in all its shapes and phases; his colleague on the

other hand was willing to trust it to the uncertain and fluctuating action of future legislatures, whether "hard" or "soft." This was the difference between us—this the issue—let our common constituents decide it.—*Argus*, Oct. 20, 1846.

On motion of Moses M. Strong the convention resolved itself into a committee of the whole, Mr. Baker in the chair, on banks and banking.

Mr. Harkin said it appeared to him passing strange that gentlemen of this convention who appear to be hostile to all banking institutions are also for striking out the penalties. If the two or three first articles of this report are sufficient to put down banking, then the penalty will become a dead letter. It is well known there is an institution in this territory doing all the business of banking in defiance of all legislation. Now the question is, Will the penal part of this report put it down?—if it does, why not adopt it? This bank may be some like the fox, harmless close by its own door, but at some distance it is like the dog in the manger—will not give us a good currency itself and keeps other good currency out.

Mr. Ryan wished to state one word to the committee before they proceeded to take under consideration the majority of his report. He wished it understood that the gentleman in the minority of the committee had not expressed any unwillingness at the time that the report of the majority should be submitted, but merely remarked that he should submit a minority report more in accordance with his views upon the subject. In regard to his not having called the committee together to deliberate upon the report before its presentation he would say that he had done as the chairman of many other of the committees had done; he had drawn up a report and submitted it to the gentlemen of the committee as he could catch them. In regard to the report itself, he had heard considerable criticism upon it. He would remark that there might be errors in it, but he had prepared more difficult documents than this and was not thin-skinned in regard to the criticism which might be passed upon the report. Mr. Ryan was opposed to the delegation of any power whatever to the legislature to interfere with the subject of

banking and went over his old ground of argument in favor of the penal clauses of his report as the only effectual mode of so restricting their power. The novelty of the thing was no reason why it should not be adopted; that we had a great precedent in such adoptions of novelties. The Constitution of the United States, the great fundamental principle upon which all subsequent constitutions have been framed, was a novelty. There was no constitution existing for their guidance or precedent. England nor any other European power had a constitution except in the minds of their statesmen. He went on to show the effects of banking in Pennsylvania, by averring that the United States Bank controlled the executive, Congress, and the state—that its periodical expansion and contraction of circulation controlled the money market of the whole country, thereby creating a panic whenever it suited their pecuniary interests to do so. He also reiterated the probability of future legislatures being influenced by lobby beggars. Mr. Ryan occupied the floor until the usual hour of adjourning to dinner, and upon his resigning it the committee rose and reported, leave being granted them to sit again.

Moses M. Strong then moved that the convention adjourn to two o'clock, which motion prevailed.—*Express,* Oct. 20, 1846.

TWO O'CLOCK, P. M.

On motion of Moses M. Strong, the convention again resolved itself into committee of the whole for the further consideration of No. 1, "Article relative to banks and banking" and the minority report relative thereto, Mr. Baker in the chair. And after some time spent therein the committee rose and reported progress on the said article and asked leave to sit again thereon. Leave was granted.

Moses M. Strong moved the convention go into committee on banks and banking, which motion prevailed, and Mr. Baker was again called to the chair.

Mr. Kellogg offered an amendment, which he said had struck him as expedient; he withdrew his amendment to allow Mr. Ryan to offer the following, which had suggested itself to him since his report was submitted as amendment to the original report:

"Amend by inserting between the sixth and seventh sections as follows, and alter number of the seventh section to 8:

" '[Section] 7. No branch or agency of any bank or banking corporation or institution of the United States, or of any state or territory within the United States, or of any person or persons doing banking business without this state shall be established or maintained within this state, or shall issue any paper money, bank note, or other evidence of debt whatever, intended to circulate as money, or receive deposits of money, make discounts, or buy or sell exchange, or exercise any other banking power or privilege whatever, in any manner or form whatever, within this state; and any officer of any such branch or other agent of any such bank, corporation, or institution, person or persons, so doing shall upon conviction thereof be fined in a sum not less than $5,000 and imprisoned in the penitentiary not less than two years.' "

Mr. Kellogg then offered the following amendment:

"Section —. No person shall pass, or pay, or give, or receive in payment any paper money or bank note of a less denomination than ten dollars: Add to the amendment the words: 'And any person or persons so doing shall upon conviction thereof be fined in a sum not less than____dollars or imprisonment not less than____months, or both.' "

Mr. Wm. R. Smith then offered the following as a substitute for the whole report of the committee:

"Section 1. There shall be no bank of issue within this state.

"Section 2. No bank of any state, or of the United States, or of any foreign country, shall establish any branch, office, or agency whatsoever within this state.

"Section 3. The legislature shall not have power to create, incorporate, or authorize in any manner or form whatsoever, within this state, any bank, institution, association, company, or individual whatsoever, possessing any banking powers or privileges whatsoever.

"Section 4. The legislature shall at its first session after the adoption of this constitution provide by law for the infliction of penalties on all individuals, corporations, associations, and companies whatsoever who shall in any manner or form make,

sign, or issue within this state any bank note, promissory note, bill, order, check, certificate of deposit, or other evidence of debt whatsoever, intended to circulate as money.''

Marshall M. Strong spoke some time in favor of the adoption of the report.

Mr. Whiteside was also in favor of the adoption of the report and knew that his free, frank, and magnanimous constituency would uphold him in the course he should take by voting for it. He went on to show the operation of paper circulation in the mining district where he came from and its many evils were anathematized of course.

Mr. Chase rose to make some remarks, though not to detain the convention with a speech. He alluded to some remarks made by Moses M. Strong that he thought applied to him. Mr. Strong explained that such application was not meant. In the course of his remarks Mr. Chase also made allusion to members making speeches for buncombe, which brought out Marshall M. Strong, who rose to inform the gentleman that the allusion to members making speeches for the people could not apply to him, as he had already requested the reporters not to report anything he should say.

Mr. Hicks had heard no report, amendment, or substitute yet that suited him. He was in favor of the original report so far as it went, but it did not go far enough; it was not ''hard'' enough. He had drawn up an amendment to suit himself, which would make hard harder. His amendment was as follows:

''Strike out all after the first section and insert:

'' 'Section —. The legislature shall have no power to confer in any manner or form, upon any person or persons, corporation, or institution of any kind any banking power or privilege; nor any power or authority in any manner or form to make, sign, or issue within this state any paper money, bank note, bill, order, check, certificate of deposit, or any other evidence of debt intended to circulate as money.

'' 'Section —. No person or persons, corporation, or institution, or any officer or agent of any corporation or institution of any kind shall ever make, sign, issue, pay, give, or re-

ceive in payment any paper money, bank note, promissory note, treasury note, certificate of deposit, or other evidences of debt intended to circulate as money, which shall purport to have been issued either within or out of this state. Any person upon conviction shall for a violation of any of the provisions of this section be fined in a sum not less than $5,000 and be imprisoned not less than two nor more than ten years.' ''

Moses M. Strong would vote for the last amendment to the amendment and would then vote against the amendment as amended, because the original report suited him best.

Mr. Ryan said he was not struggling for words nor whence words come. He took to himself no honor in framing this report; if it emanated from any other gentleman of the convention, he would have supported it with the same heartiness. He would vote for any amendment which covered the same ground as the report. This amendment by the gentleman from Grant suited him better than the amendment of the member from Iowa, and he should therefore vote for the amendment to the amendment and then vote against the amendment as amended.

Mr. Judd moved that the committee rise and report progress and ask leave to sit again, which was carried, and the committee rose.—*Express,* Oct. 20, 1846.

Mr. Ryan moved that the amendments offered in committee of the whole to said article be printed for the use of the convention which was decided in the affirmative.

Hiram Barber presented the certificate of election of Horace D. Patch, a member of this convention from the county of Dodge, who on his motion was admitted to a seat.

On motion of George Hyer the convention adjourned.

BANKS AND BANKING

(Speech of Mr. Noggle, October 12, 1846)

Mr. Chairman: I propose to make a few remarks upon the subject before the committee. And in doing so, permit me to say that I do not propose to make a speech for my own notoriety or aggrandizement—nor do I intend to boast or brag about my constituents; they are a class of people possessing intelligence and integrity sufficient to commend them to the hon-

est deliberations of this body, without an effort on my part to puff them.

The question before the committee has already been under discussion nearly three days, and has been ably discussed, and it would seem to be presumptuous on my part at this late period to attempt to throw any new light upon the subject before the committee; but, Mr. Chairman, it does seem to me that much of the discussion already had has been upon matters not in issue before the committee and in support of principles not denied by anyone upon this floor, save the gentleman from Fond du Lac (Mr. Gibson) who introduced the minority report. I do not, Mr. Chairman, consider that we are properly to decide in voting upon this matter the question whether banks are good or bad—whether proper or improper—whether we shall have banks or not—for every member of this committee who has had the honor of occupying the floor since the commencement of the present discussion save the exception before mentioned has been loud and boisterous in declaring his hatred, indignation, and determined opposition to banks and banking in all its hideous shapes and forms; then can it be possible that we are disputing or contradicting whether we will have banks or not? From the course which the debate has taken thus far it would seem that we are warring against banks. Now, Mr. Chairman, it does appear to me that gentlemen who have addressed the committee have lost sight of the proper question, the real matter in dispute. If I understand the matter correctly the real cause of dispute and which we are by our votes to settle and determine grew out of the two provisions contained in the majority and minority reports of the committee on the subject of banks and banking in connection with the substitute of the gentleman from Iowa (Mr. Smith) and the amendment to the substitute offered by the gentleman from Grant, all of which, in my opinion, as the matter now stands before the committee, resolves the whole dispute into two questions: First, shall we exclude from circulation entirely, and at once, paper money? And second, shall the penalties contained in the report be enacted and retained as a portion of the constitution?

As to the first, shall or shall we not exclude from circulation within the new state all paper money whatever? I answer for myself and for my constituents in the affirmative. The gentleman from Walworth, my friend Mr. Baker, contends that it would be ruinous to the interests of the eastern portion of the territory—that the people of that portion could not transact business without the use and benefit they daily d[e]rive from foreign bank paper—that persons who sell their farms east would not be able to bring with them the gold and silver, but would be compelled to bring the paper of the neighboring banks. If this is true, Mr. Chairman, does it not then follow that we should at once discard it and distrust such currency? Are we not in imminent danger of being swindled—yes, ruined—by trafficking in such unsafe and uncertain currency? Sir, if the eastern emigrant cannot obtain the specie in the neighborhood of the bank, or at the bank counter, has he any right to presume that he will get the specie in the far west, a thousand miles perhaps from the banks? Most certainly not. Then is it safe, is it justice to ourselves or to our neighbors to hold out an inducement for the circulation of foreign paper money? Shall we in our magnanimity, in our great design to do the greatest good to the greatest number, say by our acts in this hall that banking shall be forever excluded from the good citizens of the future new state of Wisconsin, and at the same time declare to every other state that we open the door for them to roll their rags into our midst and thus enrich the foreign bankites upon the hard earnings of our own worthy citizens, and at the same time have a provision blazing forth in our constitution and upon our statute books prohibiting under a severe penalty banking in all its various shapes and forms within the new state? The gentleman from Walworth (Mr. Baker) undertakes to say that the business of the country cannot be done if we exclude paper entirely—that it will be out of the question to make the necessary exchanges. Supposing that the whole business of the country was done with silver alone and every dollar received for merchandise should be sent to New York and Boston to pay for the goods, how much would it cost for freight and insurance to send all the silver to the above

named cities? I will undertake to say to gentlemen who find silver so very abundant and so very cumbersome that every dollar can be taken from Milwaukee to New York or Boston for less than $1.55 on the $100 as often as they are prepared to send. But I am supposing a state of things that cannot exist. I have made no allowance for our exports, which I will undertake to say are nearly as great, if not greater, than our imports. After deducting from our imports the lumber, the lead, the copper, and the produce exported from this territory at the present time (saying nothing about the wool, hides, and furs) I would ask what would be the probable balance against us? Sir, it would be in our favor. Where then the necessity of being so much alarmed about our exchanges? Gentlemen seem to think that money is not a portable article. Do gentlemen forget that all the gold and silver received by the officers of the government for nearly the whole northwestern portion of the United States is deposited at St. Louis monthly; and can it be possible that gold and silver can be taken from Green Bay to St. Louis monthly, winter and summer, easier or cheaper than it could be taken from Wisconsin to New York? Reason teaches us that if silver can be carried safely by land a thousand miles in the quantities now so carried, that it can be taken to the eastern cities much cheaper and safer. Then is it necessary to call to the aid of our commerce worthless eastern bank paper or any other bank paper? I say not, and I say further, if we are to be continually and eternally wedded to banks and bank paper, let us at once say and determine that the good citizens and capitalists of our own state shall have the privilege of furnishing it for us, and not bar them from the benefits extended to foreign nabobs.

I come now, Mr. Chairman, to the second and last point in the matter in dispute before the committee: the question whether we will retain the penalties in the majority report and make them a part of the constitution. It is argued by gentlemen that such enactments are unusual, unprecedented. Now, sir, is that a sufficient reason why such a provision should not be in our constitution? It seems to me not. Sir, is it right; is it proper? All agree that the most stringent prohibitions

against bank and bank influence should be provided, but the great difference seems to be whether the work of prohibition shall be made complete in the constitution or whether we shall leave the most material and essential part for the legislature to do.

It does seem to me that we are differing and disputing about a small matter. I, sir, have no fears in relation to the matter. I am perfectly willing to trust the matter with the people, but the friends of the measure are anxious to retain the penal provision in the constitution. Some who oppose the measure contend that such a penal enactment would be a dead letter without further legislation upon the subject. My colleague (A. H. Smith) contends that if the report is adopted it will become a law complete without further legislation. I do not so understand it, and therefore I must differ with him; in my mind further legislation would be necessary if the report is adopted. Provision must be made for the prosecution and recovery by law.

But the adoption of the report will completely fix the minimum of the punishment, below which no legislature can go. The gentleman from Fond du Lac (Mr. Gibson), who presents the minority report, says that he is opposed to the report in every particular; he however declares against banks for the present. He says he does not believe that banks will be wanted in the new state for the next ten years; but he says the time will come when we shall be more wealthy and will need banks. Now is his argument well founded?

Is it true that a population of one hundred and fifty thousand doing a business commercial or otherwise of two millions of dollars can get along better without banks than with, and is it equally true that when we have a population of six hundred thousand inhabitants doing a business commercial and otherwise to the amount of eight millions of dollars, that we must then have banks? Is it true, sir, that a merchant doing business of five thousand dollars now can do the same without the aid and assistance of banks, and ten years from this time the same merchant doing the same amount of business must then have the kind favor, aid, and assistance of

banks? I do trust, sir, there is too much good sense in this committee to believe any such doctrine. Then, sir, if the gentleman's position in this respect is unfounded, does not his whole argument fall to the ground? Then, Mr. Chairman, is there anything wrong in retaining the penalty in the constitution? Some gentlemen seem to think that with the penalties retained in the constitution it will look bad. Now, sir, that is not the question. I care not whether we make a long or a short, a homely or a handsome constitution. The only question with me is, How shall we make it in order to get it right? Make it right, and then it will possess all the qualifications that will be necessary to recommend it to my constituents. Something has been said about trusting the people; that the Democracy should not mistrust the people; that Democrats should be willing to leave the question of penalty and of enacting such laws [as] shall be necessary from time to time to carry into effect the constitutional prohibition to future legislation. Now, sir, I am never afraid to trust all matters of government with the people, and I am confident that if any legislature hereafter should betray the confidence reposed in them by the people, and attempt to render the constitutional provisions nugatory by their acts, that the people would at the very next election relieve such honorable legislators from the responsibility of serving them further. Notwithstanding I have complete confidence in the people, I have not that confidence in the legislature. I am convinced from the past history of our country that money has an uncontrollable influence upon legislative bodies. I well recollect the history of banking in Michigan. Although that system is charged upon the Democrats by gentlemen upon this floor, I must beg leave to differ with them. I admit the fact, sir, that the time the wild-cat system in Michigan was established by the legislature of that state, the Democracy had a majority in both branches of the legislature; but did not the main body of the Democratic party oppose, and did not the entire Whig party support it? And I ask if money was not brought to bear upon the weakness of representatives? And did not some corrupting influence bring to the assistance of the Whigs a few Democratic members—suffi-

cient to carry the measures—and thus curse that state for years? And, sir, is it not an alarming fact that when General Jackson was elected president there was a large majority in both houses of Congress decidedly Democratic? And when the term of the same Congress closed, a majority were decidedly opposed to him? A second Congress elected by the people who took their seats decidedly Democratic and devoted friends to the President—their term expired and they closed their labors with a decided majority against the President. All this had its effect with the people; they began to inquire into the cause; a third Congress was elected and took their seats with a decided majority in favor of the administration, but to the astonishment of all, the same biennial change visited them. A fourth exertion followed on the part of the people in behalf of the administration with a similar result; and again was the will of the people, as expressed through the ballot boxes, defeated and disregarded. This was sensibly felt, but the cause was as yet unseen and untold. The energy, firmness, and patriotism of the President in the meantime prostrated the United States Bank, and subsequently a settlement of the affairs of that institution disclosed the whole evil. The great cause of the numerous political changes of members of Congress was then made apparent. The financial affairs of the government monster showed that some two hundred and fifty members of Congress, during the eight years of President Jackson's administration, had received large accommodations at that institution, all of which satisfied the people most effectually that a speedy divorce between the government and all moneyed institutions must take place. I mention these circumstances, sir, to show the influence money has had and will be likely to have again over legislatures to prevent which the penalty in the report was proposed. I also mention these facts to show that the people are generally right, but that when money can be brought to bear upon their representatives they (the representatives) are generally wrong.

Now, Mr. Chairman, what would be the great advantage to the people of this new state, if the penalties should be retained and made a part of the constitution? I will briefly give my

views in relation to the great benefits we should derive from the penalties proposed to be enacted. The report only proposes to fix the minimum below which no after legislature can go, thus settling the question forever beyond dispute, teaching the banking world that we have forever placed our legislature beyond the influence of money and corruption on the subject of banks and banking, that we have rendered lobbying useless and of no avail, and therefore the time that would undoubtedly be spent by our legislature in listening to the appeals made to them by capitalists, asking, yes, begging of them to enact mere nominal penalties in order that the rich may in a legal way monopolize all monetary affairs and thereby crush the poor. Who does not believe that the simple enactment of the penalty would in time save many hundred thousand dollars to the people of the new state?

But, Mr. Chairman, while I am upon this subject, permit me to say that it is my opinion that the penalty proposed as a minimum is too high; the term of imprisonment proposed should in my opinion be reduced to one year; but by all means retain the provision for imprisonment in the state prison; for I can assure the members of this committee that imprisonment in the state prison will do more towards prohibiting the violation of the provisions of such a constitution as we now propose to adopt than a fine of a hundred thousand dollars. And in the case of passing, I think a forfeiture of the money offered would be sufficient to prohibit a violation of that portion of the constitution.

I would in conclusion suggest, as a matter of policy, that the exclusion of foreign paper from the new state be gradual. After 1847, exclude all paper of a less denomination than $5; after 1848, all of a less denomination than $10; after the year 1849, all of a less denomination than $20; and after 1850, all of a less denomination than $50; and all bills of $50 and over would become and take the place of bills of exchange. I have thus briefly given my views, hoping that we will act rationally on all these matters and avoid as much as possible personalities; too much personal feeling has already been exhibited upon this subject.—*Democrat,* Oct. 31, 1846.

BANKS AND BANKING

(Speech of Mr. Prentiss, October 12, 1846)

Mr. Prentiss said he had no desire to discuss the subject of banks and banking, but, that his course might not be liable to misconception, he wished to state briefly some of the reasons why he could not vote for the article as reported from the committee. Whenever it was his duty to act in any manner to affect the general interests of the country or of any portion of it, he would so act as he believed would best promote those interests, whatever might be the consequences to himself as an individual. If he could not please all his friends, he could only say it was as much a source of regret to him as to them. The question was not whether there should be a bank, but whether they would give the power, with proper guards and under proper restrictions, to the legislature of authorizing banking in any form, at any future time, or in any possible contingency that might occur. That is the true question at issue. The great principle involved in this article, if fairly developed, would reduce the currency, which is now a mixed one, to one of a purely metallic character. The mere inhibition upon the legislature of authorizing banking in any form is but half of the work; to carry out the principle they must expel from the currency everything but hard money, and that in the present age he believed was utterly impossible. In viewing this question they should not act with reference to first principles merely, they should not look upon the thing in the abstract only, as if it were new and untried, but they should have regard to the circumstances in which they were placed and the relations which they bear to other states, and see how they would be affected by attempting to carry out the principle. If they were an isolated people, separated from all the rest of the civilized world, perhaps the principle as contained in the article would be well enough in practice; but as they now were, in their present condition, the principle he believed was utterly impracticable. If they were to inhibit every species of banking, as a necessary consequence they must pre-

vent the influx of foreign bank bills; it is in vain to inhibit all banking and yet permit here the circulation of bank notes of other states, over which banks they can exercise no control or regulating power, and of the character of their notes they can know little or nothing. He would have no banking under any circumstances unless it could be done safely to the public and for their convenience; he was as unfriendly as anyone to irresponsible banking, and he was equally as unfriendly to any principle which, if carried out, would tend to impair or check the increasing prosperity of the country.

This article forever prohibits the legislature from authorizing banking of any kind, under any restrictions. He was not willing that the legislature should have no power at any future time when, perhaps, the circumstances and necessities of the people might require it, to permit banking with proper guards, and under proper restrictions. Nor was he willing that the present population of the territory, of one hundred and sixty thousand, should bind half a million of people, to which the population of the territory would soon swell, upon a matter of at least doubtful policy.

Besides, a constitution, in his apprehension, should consist of few, single, and fundamental principles, and not of matters of questionable expediency or doubtful policy; those should be left to the legislature properly restricted; and especially should they not insert into the constitution provisions which cannot be enforced.—*Democrat,* Oct. 31, 1846.

TUESDAY, OCTOBER 13, 1846

Prayer by the Rev. Mr. McHugh.
The journal of yesterday was read.

Mr. Judd called the attention of the convention to an error in punctuation in printing the report of the committee on finance, taxation, and the public debt, whereby the meaning of the report is essentially altered.

N. F. Hyer called up the resolution offered by him some days since, relative to obtaining certain information from clerks of courts.

The Chair was of opinion that his motion would be in order when the unfinished business came up.

Mr. Judd begged leave to differ with the Chair in his construction of the rules.—*Express,* Oct. 20, 1846.

Moses M. Strong moved that the rules relative to the order of business be suspended and that the convention do now resolve itself into committee of the whole for the further consideration of No. 1, "Article relative to banks and banking," and the minority report relative thereto, which was decided in the affirmative. And a division having been called for, there were 53 in the affirmative and 13 in the negative.

The convention then resolved itself into committee of the whole for the consideration of said article, Mr. Agry in the chair. And after some time spent in the consideration thereof the committee rose and reported progress and asked leave to sit again thereon. Leave was granted.

On motion of N. F. Hyer the convention adjourned until two o'clock, P. M.

Mr. Baker took the floor in opposition to the penal clauses contained in the majority report of the committee. He did not pretend to enter into the principles of banking, as he considered that principle definitely settled, no member having yet spoken in favor of banks or banking, although much time had been already spent in this discussion. He believed it to be a settled principle with every member of the committee that we were to have no banks nor banking operations whatever within the state. He thought the prohibition of the circula-

tion of bank notes of other states would be injudicious and inexpedient and did not believe the people would uphold the convention in inserting such a clause in the constitution. He feared the rejection by the people of the constitution containing such a prohibition. With the views he entertained upon the subject he would not be deterred from frankly and fearlessly expressing his sentiments by any such epithets as "Old Hunker," "Progressive Democrat," "Tadpole," or "Four-footed Democrat." He would ask if we were prepared to exclude all the foreign paper money from our state. He considered such a prohibition uncalled for and prejudicial to the best interests of the people. It was true, he said, that the western portion of the territory had driven out paper, which was all right so far as they were concerned, and the east could also do it by making laws to banish it. But they have never done it, nor have they ever wished to do it. The east was essentially different from the west. A constant influx of emigration pouring in, most of whom brought with them the paper of good, sound, specie paying banks, it was impossible in every case to bring specie in lieu of paper; specie was not so plenty there. If a man sold his farm for four or five thousand dollars, it was a difficult matter in many cases and sometimes impossible to obtain specie in payment. Therefore, if this amendment of the member from Grant should prevail, it would have the effect of checking emigration to our state and turn it off to some other quarter where their money could be used with less inconvenience. Mr. Baker regarded the operation of this law vastly differently west than at the east. Should you say to an emigrant coming into our lake ports, "You shall not bring your paper into our state," it would most effectually check the tide of emigration. He said the main export of the west was lead, and of the east wheat; specie was plenty at the west because there was not that competition in lead that there was in wheat. The eastern staple of wheat must compete with the vast wheat region of New York, that of Michigan, Illinois, Indiana, and Ohio; and buyers will be apt to purchase where they can do so with the least inconvenience. If they are obliged to bring with them the specie to purchase our wheat, when they can purchase their

CHARLES MINTON BAKER

From a photograph in the Wisconsin Historical Library

supplies in the other markets for the paper of sound banks, they will be drawn off to the other markets.

The majority of our territory is a wheat growing country; laws would not be to their interest prohibiting the circulation of bills of sound banks in other states. If the people of the east wish a specie currency they can have it, or any other currency they please. Unless a law enacted to prohibit paper be sustained by the good will of the people it will be of no use. They can fix the currency for themselves, and let them say what it shall be. He was in favor of leaving the penal clauses to the action of future legislatures, as it would be a novelty unheard of to name crimes and affix penalties in a constitution. The convention came here to define the future government of the state; to define the legitimate functions of the legislature; and anything further was an encroachment upon the duties of the legislature. One objection to thus lumbering up the constitution with naming crimes and affixing penalties is that it would render it complex and ambiguous, not easily understood by the people, who would sometimes be compelled to consult a lawyer to define its meaning; and he was fearful lest this should cause a rejection of the constitution in toto by the people. Give the people a constitution that is plain and conspicuous in all its general principles, and allow the legislature to fill up the details; give them some power and some duties to perform, and not arrogate to ourselves more wisdom and foresight than all who are to come after us. Mr. Baker referred, during his remarks, to the constitutions of Missouri, Texas, and other states, showing that they had not gone so far as to affix penalties but instead of doing so had left to the legislatures to prohibit banking, under such restrictions as they saw fit. These were "hard" states; the majority in Texas were emphatically a "hard" set. They both enjoin the legislatures to pass laws prohibiting banking; yet they do not go into detail by affixing penalties. He hoped to see our constitution in advance of all others in its liberal principles, but he did not consider it necessary to go into details to do this. He thought we should have our constitution plain and definite and not go into prolix details more properly belonging to legislatures, by affixing pen-

alties which can never be enforced. He thought this was considering the members of all future legislatures as mere children. They would be insulted by thus infringing upon their rights, to be considered "soft" and liable to be influenced by lobby members. They would taunt this convention with this treatment; but if this matter should be left to them, will exert themselves to carry out the intentions of this convention. Suppose this article should be engrafted into the constitution, how easy would it be for the legislature to say that complaint should be made five or ten days after the commission of the offense, or that two or three witnesses should be necessary for prosecution —would not that render these penal clauses nugatory? We should, then, confide to the good faith of the legislature to carry into effect our enactments; he considered it more magnanimous to do so than to get out of our legitimate province by making laws. The penalties are too large and the imprisonment too long to render it possible to enforce them; their magnitude would shock the people. They never could be carried into effect. This was not a transgression of any law of nature, such as murder, arson, or burglary, but a crime only because made so by the action of this convention. Mr. Baker gave notice to the committee that he had an amendment to the report, which he would submit at the proper time.

Mr. Clark was opposed to paper money of any description, let it emanate from whence it may. He was as much opposed to the introduction of "wildcat" as of "Badger" money, and would join in the hunt against these banks with a double-barreled gun, and shoot the wild cat with one barrel, the badger with the other, and then tumble them both into the same grave. He came here from an independent county, and was himself emphatically an independent man. He had heard it said on this floor that there was no such thing as an independent man to be found; it was a mistake; he would inform the gentleman who made the remark that there were independent men on the other side of the Wisconsin, and thank God and their wives these independent men were on the increase. He went the whole length in the exclusion of paper money; he had given his constituents a pledge to go the whole figure in opposing banks; and

when he should be found to forfeit that pledge on this floor he hoped his tongue would cleave to the roof of his mouth, or he be in condition for the ants to carry him through the keyhole. But he was opposed to penal clauses in the report inasmuch as he considered them disproportioned to the offense.

Mr. Beall would detain the convention by making a few remarks upon this subject which had already been so ably and cogently discussed. He thought the gentleman from Walworth (Mr. Baker) had struck the right vein at last, and he had been delighted and enlightened by listening to his able remarks; he was delighted with them because he considered them practical. Yesterday we listened to the remarks of lawyers—yesterday we had theory; today we have listened to farmers, and we had the theory reduced to practice. He considered that the convention were going ahead too fast yesterday and he would hold on to the anchor thrown out to windward by the member from Walworth. He would not detain the convention by any set speech on this subject, as he considered the floor justly belonged to the member from Dodge (Mr. Judd) but he had a substitute for the report of the committee, which he would submit at the proper time, which substitute met his views, and he hoped it would meet the approbation of the convention. Mr. Beall said he had nothing to say in regard to the principle of banking; that question was settled. No member of the committee had yet expressed himself in favor of banking and probably none would, but he did not agree with the report nor substitutes or amendments in detail as he was opposed to the penal clauses in the majority report and was opposed to the immediate suppression of the circulation of foreign paper money. The first because he considered it more properly the duty of the legislature to affix penalties and the latter because it would prove prejudicial to the interests of the people.

Mr. Judd next took the floor, premising his remarks with the observation that he had no proposition to offer, but had risen to place himself in a right position in regard to this subject. The course the discussion had taken was calculated to place the committee in a wrong position; anyone who opposed the report had been called "bank" men, which application was not

true as regarded him, nor of any member who had preceded him, if their professions were true, and he did not doubt them. All Democrats were opposed to banks, but the question was simply upon the details, and he objected to the details of the majority report. Of all the propositions submitted he preferred that of the gentleman from Iowa (W. R. Smith) which was the most simple, correct, and less liable to misapprehension. The gentleman says, "The insertion of abstract principles into the constitution would render them a dead letter, unless the penalties were clearly defined and adopted," which he did not consider was the case, and quoted from the constitution to support his argument, showing that it contained abstract propositions to which no penalty was appended.

He did not understand the meaning of the gentleman's phrases of "hards" and "softs" and therefore would not use them; the gentleman was perfectly welcome to use them in his parlance, but he wanted nothing to do with them. The idea was that the gentleman was not afraid of this convention, but afraid of all future legislatures. His opinion was that if any legislature which may hereafter be sent here is corrupt enough, violate any article in this constitution, he was willing to consider all future officers, governors, and legislatures as honest as himself and would [not] believe the people would ever send here representatives so wilfully corrupt as to violate any article in the constitution.

By voting for the amendment of the member from Grant to the substitute offered by the member from Iowa it was intended to render the latter so perfectly ridiculous that its friends would not know it, and no person who sincerely understood it would vote for it. He would state one word in regard to the section of the amendment of the gentleman from Grant prohibiting the circulation of treasury notes within our state. Would the United States admit a state into the Union with such a proposition in her constitution, making it a felony to pass, utter, or receive a treasury note? Especially a state in which she has so much public land in market, and so much more to come into market hereafter? Most certainly not. He gave

notice that he would not allow gentlemen to call him a "bank" man because of his opposition to such a gag as these penalties.

Mr. A. Hyatt Smith took the floor, but gave way to a motion to rise, report progress, and ask leave to sit again. Which motion was put and carried, and the committee rose accordingly.

The convention then adjourned to two o'clock.—*Express,* Oct. 20, 1846.

BANKS AND BANKING

(Remarks of Mr. Beall, of Marquette, in committee of the whole)

Mr. Chairman: The gentleman from Walworth has struck the right view at last. He has broken new ground, and I have no doubt his views will exert a great influence on the results of this question. Yesterday we listened to the speeches of lawyers —we had theory. Today I trust we shall hear from farmers and their opinions of the inevitable operation of the principles which are sought to be introduced into this article. I shall detain the committee but a short time, as I suppose the floor properly belongs to my friend from Dodge (Dr. Judd).

I have nothing to say, sir, of the fraudulent practices of banking and the intense feeling entertained and expressed thereof throughout the territory. I have my full share of that feeling, and I shall endeavor to carry out what I believe to be the sentiment of that political interest to which I profess to belong. The gentleman from Racine (Mr. Ryan) has drawn a most dismal but not untrue picture of individual and financial calamity which the modern system of banking has inflicted upon this whole country, and particularly the western portion of it, and he urges upon the committee in a speech of great power and talent that a system which has proved so utterly faithless in its management and ruinous in its consequences shall be condemned and inhibited in the constitution of the state. Sir, I agree with him in all this. My hostility to the frauds of moneyed monopolies which in defiance of the law have plundered year after year millions from the honest and producing industry of the country is as fixed and inveterate as his own. I believe the idea of special bank charters in this territory at least

cannot be entertained for one moment by any public man. I go further, sir. The sentiment of the masses, not only here, but all over the Union, is concentrating against monopolies of every kind with exclusive privileges; and I am greatly mistaken if the day is far distant which will produce a concurrent and unanimous action on this subject, fixing on a surer basis the monetary exchanges and dealings of the people, and reducing to fact what is now, in some degree, merely the opinion and desire of the great Democratic party of the country.

I shall be unable, Mr. Chairman, to vote for the measures proposed in the report of the committee on banks and banking, as amended, nor can I support the plan suggested in the amendment of the gentleman from Walworth (Mr. Baker) in regard to both of which I design to make a few remarks. At the proper time it is my intention to offer a substitute embodying my views and which with the permission of the committee I will now read:

"Section 1. The legislature of this state shall not have power to grant any special bank charters or confer any special banking privileges whatever.

"Section 2. All banks and all banking of any description whatever, either general or special, is forever prohibited within this state, except as hereinafter provided for.

"Section 3. No law authorizing banking in any manner or under any pretext whatever shall ever be passed by the legislature of this state, except such law be general in its terms and conveying rights equally to every citizen, and shall be adopted in the following manner: The proposed law shall pass through the ordinary forms of legislation, the yeas and nays being taken and entered at large upon the journal of the legislature, and, if adopted by them, shall be published fully and distinctly in six weekly newspapers located in different sections of the state for thirteen weeks in succession next preceding any general election, and shall then be submitted to the people, and if approved by a majority of the electors of this state, at such election, made to appear by the returns to the proper office as shall be provided for the election of members of Congress of the United States, then the said act shall become a law of the land,

subject to be repealed, altered, or amended in the same manner as is provided for enacting the same, and in no other way: *Provided,* always, the private and individual property of the stockholders of any and all banks established under this article shall be liable for all debts contracted or notes or bills issued by the corporation or institution of which they shall be stockholders, in like manner and to the same extent as for other indebtedness, and for the term of one year after the transfer of their stock shall have been made.

"Section 4. No person or persons, corporation, or institution within this state, except such as are expressly authorized by law as herein provided, or any agent of any institution, corporation, or person of any other state or territory or of any foreign country shall issue within this state any bills, promissory notes, certificates of deposit, or other evidence of debt whatever, intended to circulate as money, under the penalty of a forfeiture of an amount equal to the amount so issued, and such other penalties as shall be by law provided.

"Section 5. No corporation within this state other than those provided for in this article shall receive deposits of money, make discounts, or buy or sell bills of exchange."*

We have then, sir, three projects before us:

First. A total inhibition of banks, and also of paper circulation, under high pains and penalties, in notes less than certain denominations, after the year 1849.

Second. The legislature is forbidden to grant banking privileges. But the vacuum is to be supplied by an unlimited indulgence to currency from abroad.

Third. The plan which I have had the honor to submit to the action of the committee.

It will be observed, sir, that the advocates of an exclusive metallic currency, with their pains and penalties, have gone a figure beyond what has heretofore been attempted by any constitutional or legislative body in this country. They had not the light of example nor precedent, and they are not sustained

* The substitute of Mr. Beall, as originally read to the committee, was subsequently modified at the suggestion of Mr. Steele and appears above as it was finally acted on. The substitute was lost by a vote of 74 nays to 29 yeas.

by a proper deference to the welfare or instructions of those who sent them here. Texas and Iowa took strong and bold ground on this subject. An imputation will not be cast on their orthodoxy and progressive democracy; and yet their constitutions contain no such inflamed and revolutionary provisions as are sought to be incorporated here. Do gentlemen suppose that the people will be satisfied with an article which not only assumes to upset and annihilate their present facilities of business but insults them with an implied declaration that they are not honest enough and therefore cannot be trusted to transact their own concerns in their own way? Do gentlemen think that their system of pains and penalties descending and fastening upon the everyday transactions of men of small means will add dignity to their purpose or give character and effect to a measure the most odious and tyrannical ever attempted to be inflicted upon a free people? Sir, this is emphatically an article of discrimination in favor of the rich. It can never reach, nor do its terms apply to the man who counts his treasures by fifties and hundreds, while it descends in merciless rigor upon the unfortunate laborer who dares to use such sums as are within his ability to acquire. Sir, you may level your denunciations against one class in favor of another. You may enact these clauses of fines and jails, but you never can enforce them. If this is the principle of progressive democracy, I have committed a great error in my political attachments, and it is such a principle as can never be carried out in practice.

Mr. Chairman, the people will not be deceived in this matter. They will not be blinded by false issues and beautiful essays on currency and hard money, with which this committee were entertained on yesterday by the member from Racine (Mr. Strong) and I am greatly deceived if this whole scheme does not meet with that utter condemnation which it most richly deserves.

I am also opposed to the second proposition as introduced by the honorable gentleman from Walworth (Mr. Baker). It is infinitely less objectionable than the one to which I have alluded, and yet I can never consent to sustain a measure which is palpably hypocritical upon its face. What, sir? Shall we

restrain the issues of our own capital, over which we can at all times exercise a preventive, corrective influence, and open the floodgates for a foreign, unknown, uncontrolled, and irresponsible currency? Give me a reason for engrafting into the constitution of this state so absurd and senseless an idea! What's the evil complained of which has so aroused the indignation of the people? Undoubtedly, the uncertainty and constant loss attending a fraudulent irresponsible issue among men who seldom know where it comes from and when, if ever, it will be paid. Well, then, will any man in his senses contend that the notes of Indiana and Ohio and Michigan are safer and better in the hands of our farmers than the issues which are made in their own neighborhood, and upon which they themselves have assisted in imposing checks and guards and restraints? Sir, the whole conception is a delusion. Its consistency cannot be demonstrated by any sound reasoning and is beneath the dignity which should characterize the fundamental law of the land.

I have said that I was willing to take strong ground. I will not come short of the true position; and in this view the provisions of the substitute have been framed. Let the old and rotten hulks of special charters and exclusive privileges be exploded. Assert the antibank doctrine in this respect to its fullest extent; but if the time should arrive in the progress of free trade and the wisdom of those who sent us here, when a system of general banking, open to everyone under proper restraints, shall be deemed advisable for the well-being of the state, let not the avenue of escape be sealed. Is it not safer and more prudent to commit the responsibility to the people, in a matter which constantly occupies their attention and may most fatally affect their interests, than to oblige them to seek relief in the slow and difficult process of a revision or amendment of the constitution? Observe, sir, the recent action of New York. The tricks and contrivances and legal existence of special banking were given to the winds; and yet it was deemed unwise by an overwhelming vote to inhibit the circulation of paper, and much less to entrust the business and monetary interests of the state to the uncertain keeping of the currencies of the whole world.

May it not be true, Mr. Chairman, that the opinions of this convention are ahead of facts? That, in taking such bold strides in advance of whatever has been done in other states, we are not also ahead of the just expectations of those who sent us here? If so, I shall find consolation in the reflection that at every stage of its progress I denounced as execrable the mad and suicidal measure which there is every reason to believe the majority are determined to consummate.—*Argus,* Nov. 10, 1846.

TWO O'CLOCK, P. M.

Mr. Crawford presented the certificate of election of Charles E. Browne, a member of this convention from the county of Milwaukee, who upon motion of Mr. Crawford was admitted to his seat.

Warren Chase, by leave, introduced the following resolution, which was read, to wit: "*Resolved,* That the hour of meeting for this convention be hereafter at nine o'clock, A. M., instead of ten."

Moses M. Strong moved that the fourth standing rule for the government of this convention be suspended in reference to the above resolution, so that the same may be now taken up and acted upon, which was decided in the affirmative. And a division having been called for, there were 59 in the affirmative and 4 in the negative. The said resolution was then taken up and adopted.

On motion of A. Hyatt Smith, the convention again resolved itself into committee of the whole for the further consideration of No. 1, "Article on banks and banking," and the minority report relative thereto, Mr. Agry in the chair. And after some time spent therein the committee rose and reported progress and asked leave to sit again. Leave was granted.

Moses M. Strong moved that the convention adjourn until seven o'clock this evening. Mr. Judd moved to adjourn, which was decided in the affirmative. On which motion a division was called for and there were 66 in the affirmative, negative not counted. So the convention adjourned.

The convention went into committee of the whole on banks and banking, Mr. Agry in the chair.

A. Hyatt Smith took the floor in support of his views upon the subject before the committee, which were in favor of the amendment of the gentleman from Grant with an amendment of his own to the same, and which he would offer in its proper place for the gradual withdrawal of all foreign paper money from the territory. Mr. Smith occupied some two hours in his

remarks, and in the course of them alluded to the manner in which the Wisconsin Marine and Fire Insurance Company had escaped every effort made by the legislature to prevent its operations; and also to the part taken by certain members of the last legislature in reference to the subject. These allusions brought out Mr. Dennis, who construed the remarks of the preceding gentleman as meant to apply to himself, and wished to define his position. He said the only two men who were opposed to the repeal of the Wisconsin Marine and Fire Insurance Company charter at the last session of the legislature were the Attorney General (A. Hyatt Smith) and Mr. Mitchell, the president of the institution.

Mr. Dennis was called to order by the Chair, the discussion becoming personal. He then proceeded in order upon the subject of the report of the committee, pointing out what he considered an oversight on the part of the framer, and desired an explanation upon the subject. He thought the committee had overlooked it in their report and gentlemen had not noticed it during the discussion. He thought that if a person should pay the penalty or undergo the imprisonment inflicted by the article in the report of this committee he could afterwards bank as much as he pleased. This report was therefore not hard enough for him, as he was opposed to leaving any such loophole unclosed.

Mr. Ryan would inquire if the gentleman thought that if a man had once been tried and sentenced for murder and pardoned by the governor he would have a right to murder every man he chose.

Messrs. Parks and Bevans continued the discussion, the former giving an essay upon the relative value of gold and silver, exchanges, etc., etc., and the latter went over the old arguments of the "hards" and occupied the floor until the usual hour for adjournment, when it was moved and carried that the committee should rise and report.—*Express,* Oct. 20, 1846.

BANKS AND BANKING

(Speech of Mr. Parks in committee of the whole, October 13, 1846)

Mr. Chairman: In the course of this debate a wide range has been taken by the different speakers, bringing up directly or indirectly the whole subject of the currency. That great evils have long existed and do now exist in the currency of the country is most undoubtedly true; but as the disease lies deeper in my opinion than anyone on this floor has as yet pointed out, or people in general have been in the habit of looking, so likewise, in my opinion, the remedy is beyond the reach of this convention. That banks and bank issues have long been and now are great evils I have no doubt, but they are the natural consequences of the disease and not the disease itself; the cause of those great convulsions in the money market, which have rendered so unstable the commercial interests of this country and caused so much trouble and loss to all classes of the community, gentlemen here allege to be the great issues of bank paper; this I conceive to be the effects but not the primary cause. This primary cause and the remedy I propose to examine:

The great cause of most if not all the trouble in the currency of this country for the last thirty years I conceive to be found in the fact that we have made a metal which is not a precious metal the legal tender of the country—and before I go any farther, Mr. Chairman, I will stop here to explain what is in my opinion a precious metal. It is a metal which has at least two qualities: In the first place it must be a useful metal, such for instance as can be put to some valuable use in the mechanic arts, to give it a stable value; and in the second place it must be sufficiently scarce to contain much value in small bulk and weight, to make it a portable currency. Gold has the advantage of both qualities; it is very useful and is much used in the mechanic arts and is sufficiently scarce at present to be a portable currency; but it is certainly not the case with silver. It is a valuable metal in the mechanic arts and therefore stable in its value, but very few people I apprehend at this time will

think it sufficiently scarce to be a portable currency. Why, Mr. Chairman, it weighs sixty pounds to the thousand dollars, and few whose payments in different sections of the country should happen to be large would like to lug this cumbersome metal about them. However, in one respect it may be considered perfectly safe, for no thief could steal enough to pay his expenses in running away; but if that is to be considered an advantage pig lead is much to be preferred to silver in that respect. The law to be sure makes gold and silver both a tender, but practically our tender has always been silver, for the relative value of any two metals depends not on the law of Congress, but on the demand and supply; in that respect the law of trade is greater than the statute law, so that whatever laws may be required on the subject the currency will always be substantially only of one metal or of something founded on only one of the metals made by law a tender, and of course of the least valuable of the metals which are made by law a tender.

This law of supply and demand is not peculiar to gold and silver. Suppose for instance that Congress should pass a law that two bushels of corn should be of the value of one bushel of wheat, and suppose, further, that to have been the exact relative value at the time the law passed, and that the next season we had a short crop of wheat and a great crop of corn, then of course the relative value would be entirely upset and every man would hold his wheat at a premium and pay his debts in corn. I will now show that this is no more than has actually taken place in our mixed currency of gold and silver. In 1792 Congress passed an act to regulate the relative value of these metals and declared that the Eagle of the value of ten dollars should contain 247 4/8 grains of pure gold or 270 grains of standard gold and that a dollar should be of the value of a Spanish dollar and contain 371 4/16 grains of pure or 416 grains of standard silver, thereby establishing by law that 24 7/10 grains of gold should be worth 371 4/16 grains of silver. But the laws of demand and supply were not to be controlled by the laws of Congress, for the silver mines continued to pour out their supplies in a greater proportion than the gold

mines did, and of course silver fell in value and continued to fall in price until in 1834 when Congress found it necessary to pass another law on the subject. The difference was nearly seven per cent. Now, Mr. Chairman, what was the practical result of this? Why of course it was to cause all the business of the country to be done in silver or its representative, for who would pay their debts in gold when they could pay them in silver for six or seven per cent less than they could in gold; and all the banks were particular of course to arm themselves with the cheapest tender.

And it had another quality which made it peculiarly desirable as a tender to them: it was so bulky and heavy in proportion to its value that no one could take it away without great trouble and expense, and this relative value has continued to change so that gold is now worth one and a half per cent advance or rather from the continued oversupply of silver from the Mexican and other mines silver has continued to fall and has since 1834 fallen nearly one and a half per cent. Where this will stop I know not; neither do I think it important to inquire. It is sufficient to know that our currency can never be a mixed one of gold and silver and that silver has so far ceased to be a precious metal as to be unfit to form the currency of any commercial country; and, sir, we can not repeal the act making silver a tender; that is for Congress and not for us.

Under this state of things what course are we to pursue? Are we to engraft on this constitution a prohibition of bank bills and undertake to enforce it by pains and penalties? In my opinion certainly not. People will not be forced into lugging this cumbersome metal about them and submit to all the inconvenience of doing their business in a metal which has long since ceased to be a precious metal. They will either reject the constitution entirely or this provision will become a dead letter and remain there only a monument of the folly of this convention; and the business world will continue to do as they long have done: they will take bills of even doubtful credit, rather than be troubled with the silver. Legislative interference with the private business of individuals is always dangerous and last of all should it be engrafted in the constitution.

Mr. Chairman, although I am against inserting any of these restrictions of small bills into the constitution, I am far from being in favor of the chartering of banks in this state at present, for the plain reasons that there is not capital enough in this country at present to establish banks on a safe footing—there are no money lenders among us; at least there are few or none who have money to lend at a fair interest, so that the stock would inevitably fall into the hands of money borrowers who would use them [it] for the sole purpose of extending their facilities of credit without regard to the public safety; and further, whatever may be the views of other members of this convention, my own opinion is that there must shortly be an entire change in the currency of the country by substituting gold or some more precious metal for silver; and when that time comes banks will be comparatively harmless, being but little more than banks of deposit and discount, facilitating merchants in their business at home and their exchanges abroad, entering but little into the general currency of the country.

Before I close, sir, I will make one remark in answer to a question which will no doubt arise in the minds of many. That is whether there is gold enough in the world sufficient to answer the purpose of a general currency. From the quantity usually seen in this country in years past one may well ask the question, and, sir, so long as silver is permitted to crowd out the more precious metal there will never be enough in this country; but, sir, when the law making silver a tender is repealed, there will be enough of it in the country. Why, sir, there is not only enough gold in the world, but I do not hesitate to say that there is already too much of it to form a convenient currency, and the supplies of it are constantly increasing though not in the ratio that silver is. For the last fifty years the value of even gold has fallen exceedingly in consequence of the great supplies—that is it requires a great deal less of human labor to procure a given quantity of it, and, when procured, it will not purchase near so much of the supplies for the necessary wants of man; and I have no doubt but the time will soon arrive when we must seek a more precious metal even than gold, for the great object to be sought is to procure that metal for money

of which we can convey the greatest value in the least bulk and weight; and, sir, we must be content to let the people exercise their own judgment in the choice of paper, until the general government shall see fit to act with sound judgment on this subject.—*Democrat,* Nov. 7, 1846.

WEDNESDAY, OCTOBER, 14, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read.

Mr. Cruson presented the certificate of election of Thomas P. Burnett, a member of this convention from the county of Grant, who upon his motion was admitted to his seat.

Mr. Baker presented the certificate of election of William Berry, a member of this convention from the county of Walworth, who upon his motion was admitted to his seat.

Mr. Holcombe presented the certificate of election of Peter A. R. Brace, a member of this convention from the county of Crawford, who upon his motion was admitted to his seat.

A. Hyatt Smith presented the certificate of election of Samuel T. Clothier, a member of this convention from the county of Jefferson, who upon his motion was admitted to his seat.

Mr. Whiteside presented the certificate of election of James R. Vineyard, a member of this convention from the county of Grant, who upon his motion was admitted to his seat.

Asa Kinne introduced the following resolution, which was read, to wit: "*Resolved,* That any white male citizen of the age of twenty-one years, of good moral character, and who possesses the qualifications [of] learning and ability, shall be entitled to admission to practice in all courts of this state."

James H. Hall introduced the following resolution, which was read, to wit: "*Resolved,* That the committee upon miscellaneous provisions not embraced in the subjects committed to other committees be instructed to consider and report whether or not it is expedient to incorporate a clause in the constitution exempting real estate from sale upon execution, and also whether or not a clause be incorporated providing for the better protection of the rights of married women in their property, and if in their opinion the incorporation of such clause be expedient, that they be directed to report proper articles for that purpose."

Mr. Clark introduced the following resolution, which was read, to wit: "*Resolved,* That 150 copies of the late act of Congress providing for the admission of Wisconsin into the Union be printed for the use of the members of this convention."

Mr. Parkinson introduced the following resolution, which was read, to wit: "*Resolved,* That the legislature shall have [no] power to pass any law authorizing the granting of license for the sale of spirituous liquors in this state."

Mr. Judd moved to take up the resolution calling upon the treasurer for certain information. The President decided that the motion was out of order.

Mr. Judd called for the consideration of the resolution offered some days since in relation to the canal lands for information.

The Chair decided such call out of order, being properly unfinished business.

Mr. Judd differed with the Chair in his construction of the rules.

Here ensued quite a discussion between Messrs. Judd, Marshall M. Strong, and the Chair in regard to his decision. The Chair decided that he would hold to his decision until he should be convinced of error; he would further consider upon it and give his views upon it hereafter.—*Express,* Oct. 20, 1846.

Mr. Dennis moved that the use of this hall be granted to Henry Barnard, for the purpose of delivering a lecture on the subject of common schools and education on this and tomorrow evening, which was agreed to.

The Chair read a communication from Mr. Tweedy, member from Milwaukee, requesting the use of the convention chamber this evening for a lecture on education to be delivered by Mr. Barnard, superintendent of common schools of Rhode Island, which, on motion of Mr. Dennis, was granted.—*Express,* Oct. 20, 1846.

The following resolution was then taken up and adopted, to wit: "*Resolved,* That the treasurer of the territory be and he is hereby requested to report to this convention what amount of moneys has been realized by the sale of canal lands, whether such amount has been received by him, or how much thereof has been received by him, by virtue of a resolution in relation to canal funds approved February 3, 1846, what disposition he has made of the amount received by him, in whose hands any amount not received by him now is, and how much there is in his hands subject to the order or control of this convention."

The resolution proposing amendments to the twelfth rule was then taken up and adopted.

Moses M. Strong then moved that the convention do now resolve itself into committee of the whole for the further consideration of No. 1, "Article relative to banks and banking," and the minority report thereon, which was decided in the affirmative. The convention then resolved itself into committee of the whole on said articles, Mr. Agry in the chair. And after some time spent therein the committee rose and reported progress on said articles and asked leave to sit again thereon. Leave was granted.

Marshall M. Strong moved the convention go into committee of the whole on banks and banking.

Mr. Judd claimed that his motion to take up Mr. Dennis' resolution was in order, and the resolution was taken up and read.

Mr. Ryan moved to amend the resolution by adding the words "and inquire of the secretary what amount has been received from sales of canal lands, and not come into his hands." He had heard that a considerable sum had been realized from the sale of these lands which had not been paid over to the secretary. The amendment was accepted, and the resolution as amended carried.

Mr. Burnside's resolution calling for the ayes and noes on each article of the constitution on the final vote was taken up, and after some discussion between Messrs. Burnside, Baker, and Ryan it was carried.

Moses M. Strong moved the convention go into committee of the whole.

The Chair was of opinion that a motion to suspend the rules was necessary.

Mr. Strong was of a contrary opinion, that no suspension of the rules was involved, nor a motion necessary. He said the unfinished business was in order, and that which had progressed farthest should be first taken up; it was the only unfinished business before the convention, as the resolutions had not been acted upon at all, whereas much time had already been spent in committee of the whole on banks and banking. The convention was involving itself in inextricable confusion.

Marshall M. Strong thought this was not an error of the Chair, but rather of the secretary, who should arrange the order of business; the business which had farthest progressed should come up first. The Chair was wrong in his decision that there was no order in the unfinished business, which would allow the first member who got upon his legs to press his business first, no matter how recently it may have been introduced, to the exclusion of that which had long been before the convention. He opposed the decision of the Chair.

Mr. Giddings thought the unfinished business of the committee of the whole could not properly be considered the unfinished business of the convention.

Mr. Ryan also took part in this discussion and consumed some time in supporting the views of his faction, opposing the decision of the Chair. When he took his seat, General Crawford remarked that he had heard a remark at the outset of our proceedings, when discussing the rules, "that a man should not talk any longer than he had anything to say." He was sorry the rule had not been adopted.

W. R. Smith said he should vote against the decision of the Chair.

The motion to go into committee of the whole was put and carried.

Mr. Agry was called to the chair, and the convention went into committee of the whole on reports and amendments thereto on the subject of banks and banking.

The question was on the amendment offered by Mr. Hicks to the substitute of W. R. Smith.

Mr. J. Y. Smith was reluctant in rising to detain the committee a few moments. The debate had been greatly prolonged, and gentlemen were getting anxious for the question. He considered this question a great one, more so than any other which would come up for the consideration of the convention. He was of opinion that the people of Wisconsin lose more every year by bank issues than would support a state government for the same time. This question was in his humble opinion but little understood by the people of the United States generally; it was a question which called for much deliberation—for great and philosophical consideration; and money could not be better spent than in discussing it fully in this committee. He was in favor of the amendment offered by the member from Grant to the substitute of the member from Iowa and would therefore vote for it; but if it was carried he would vote for the substitute as amended because he liked the original report better than either (vide Ryan, Strong & Co.).

Mr. S. went into quite a profound essay upon the relative value of gold and silver; their peculiar fitness for a circulating

medium; possessing so little liability to fluctuate in value, etc., etc. His essay upon this subject was a conglomeration of the articles which he has put forth time and again through the columns of his paper, and which, as they were not particularly applicable to the question before the committee, we shall pay as little attention to as did the many empty seats in the house, and refer our readers to the aforesaid paper for an outline of them. In the course of his remarks Mr. S. lifted the curtain to give his hearers a view of the system of banking as far back as when the mighty contest commenced against the great and frightful monster, the United States Bank, when this great question was contended whether we have a paper circulating medium. He looked back to the day when Andrew Jackson shook his stout hickory shillalah at the monster; since which time this great question has been agitated, paper or gold. This great principle was repeatedly placed before the people and made the question upon which several presidential elections have turned. The question had been put to the people whether we should have banks, and they invariably and emphatically answered, "No!" He considered the only reason for this extensive circulation of foreign paper money among us was the necessity existing of some currency, and in the absence of gold and silver the people were obliged to keep this paper circulating. But if a law was passed making it a crime to pass foreign paper money, it would be driven from among us, as it had been done in the western section of the territory. Mr. S. said much more, but as we were decidedly of opinion that the remarks were more intended for his constituents in the gallery than for the convention, we paid no particular regard to them. His resuscitating the old feud between General Jackson and the United States Bank brought out Mr. Gibson, who premised by saying that he did not rise to detain the committee with a speech, nor to change the hold of any member upon any particular measure. He had heard a great deal of discussion upon this question for the last two days and wished to speak his views upon the subject. He would first state his reasons for offering his report as minority of the committee. He did not nor did he believe there was a member of the convention who

held the opinion that the incorporation of any banking institution in the territory was expedient at the present time. But who would presume to say that the future wants of the people will not require a bank? That in some future time the establishment of a bank may not become necessary to the business of our rapidly growing state? The time was not far distant, he said, when Wisconsin would take rank among the first states of the West! Her population was increasing rapidly, and if they should continue to increase in the same proportion, how long will it be before Wisconsin may become the great dazzling luminary of this western horizon? We are a great agricultural state and are obliged to compete with all western states for a market for the products of our soil. Suppose we discard now and forever all paper circulation, by inserting a clause in this constitution to that effect—how could our farmers dispose of the products of their farms? Was it to be supposed that purchasers would be at all likely to come here to buy when they can do so with greater facility elsewhere, and that probably nearer at home? And would it not be a much easier way for them to purchase in the neighboring states, with good bank bills, than to come here with their kegs of specie? He thought it would, and their trade be drawn off to another quarter if this measure prevailed.

He was disposed to leave this matter to the people; he had confidence in them and the future legislatures; he did not fear the integrity of two-thirds of our legislature being overcome by monopolists. The "hards," as they call themselves, are anxious to thrust this measure through now, because, forsooth, as they aver, they know this convention to be "hard," and are fearful of some future legislature being "soft," and they would never again be able to do it. Was this Democratic—to mistrust the people in all future time? To effectually close the door against their future action in the matter, however much they might desire it? It did not sound much like Whig principle, and he thought it must therefore be called Democratic. This convention might legislate till doomsday, and still the people would act as they chose in regard to this matter of circulating paper money from other states. If there were any paper money in

circulation, he believed the people would prefer that it should be of Wisconsin banks than those of other states. If there were two sorts of paper money in circulation East, the good and bad, the bad was certain to find its way out here, while the good was kept at home. It frequently passed from hand to hand for some time before its character was discovered, as it was not every man who carried a bank note list in his hat or in his head, to distinguish between the good and the bad. Indeed, it sometimes happened that with such advantages even it was impossible to discover the difference. And while upon this subject he would say that it is equally difficult to distinguish between the real and the bogus of the "harder" circulating medium. But if we had a bank established in our own territory under good and wholesome restrictions we could depend upon it as good, as its operations would be carried on before our own eyes. He had one word to say in regard to the remark of the gentleman from Dane (Mr. J. Y. Smith) and which was the cause of his rising at this moment. That gentleman in the extended scope of his imagination reduced money, labor, and everything else; and, not satisfied with that, had annihilated every vestige of paper money throughout the whole United States. He thought the gentleman should have borne in mind the old proverb—"Those who live in glass houses should not throw stones"—in his argument. He had said the great dividing line between the Whig and Democratic parties was the bank question, and he would ask how long that has existed. The United States Bank, which the gentleman had prated so much about, is well known to have been chartered by a Democratic administration. It is equally as well known that Martin Van Buren was zealous in his endeavors to have a branch of this same monster located in Albany under his own immediate supervision. And it was still better known that George M. Dallas in the bitterness of his opposition to General Jackson's veto of the charter of the United States Bank attempted to urge it through the Senate by a two-third's vote! And yet these men were considered pretty good Democrats. He thought these banks were always Democratic measures until they found they could make nothing more of them, and then they turned and

barked at them as ruinous to the interests of the dear people. How was it in the state of New York, where in a convention most emphatically Democratic they had authorized the banking system? And did the Wisconsin Democrats disown the Democrats of New York as brothers of their political creed and set themselves up as the only pure and immaculate Democrats of the land? He should like to know where the dividing line was drawn in this case. The Democracy of the present day was something exceedingly difficult of comprehension; it was all things to all men—all expediency.

Mr. Noggle next took the floor and occupied the attention of the committee until the usual hour for a recess. He was in favor of inserting penalties in this provision of the constitution and of prohibiting the circulation of all paper money in the state after a certain length of time.

Upon his taking his seat, a motion was made to rise and report progress, which was put and carried, and the committee rose.—*Express,* Oct. 20, 1846.

Marshall M. Strong introduced the following resolution, which was read, to wit: "*Resolved,* That the fourth standing rule be so amended that resolutions may be considered under the third order of business, *Provided,* however, That one hour only shall be occupied in the first three orders of business, and that under the fourth order of business the business which has most progressed shall be first taken up, and of that portion of the business which is in the same state of progress that which was first introduced shall be first taken up, and it shall be the duty of the president to put all questions arising in regular order without any special motion therefor, and that all motions to lay any question on the table and all motions in relation to the priority of business shall be decided without debate, and that all resolutions heretofore laid upon the table by the convention shall be taken up and placed in their regular order of business."

Mr. Judd moved that the fourth standing rule be suspended in order that said resolution may be now taken up and acted upon by the convention, which was decided in the affirmative. The said resolution was then adopted.

Moses M. Strong moved that the convention adjourn to two o'clock P. M., which was decided in the affirmative.

TWO O'CLOCK P. M.

The convention resolved itself into the committee of the whole on article No. 1, "[Article] relative to banks and banking," and the minor-

ity report thereon, Mr. Agry in the chair. And after some time spent therein the committee rose and reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Mr. Whiteside the convention adjourned.

Under the new rule the first order of business was the consideration of the reports of the committee on banks and banking in committee of the whole, and Mr. Agry was called to the chair.

Mr. Elmore said he was a progressive Whig; this business had already progressed far enough, and he wanted to vote. He believed every gentleman came here with his mind made up on the subject of banking and was ready to vote upon it. He was a "hard" and would go for the most effectual mode of preventing banking operations or the circulation of paper money.

Mr. Randall then took the floor against the penalty clauses and the prohibition of foreign paper money. He believed the first to be unconstitutional and the latter against the wishes of the people.

Mr. Elmore made some further remarks, and Mr. Burnett rose, who went against the amendment of Mr. Hicks and the report of the majority of the committee. The amendment offered by Mr. Baker met his views and would receive his support.

Mr. George B. Smith took advantage of a slight lull in the discussion to get even with his colleague from Dane, by treating his constituents in the gallery with a lengthened and elaborate discourse, showing how peculiarly his wonderful powers of debate fitted him for a future legislator or representative. In the course of his remarks he gave quite an interesting history of the rise and progress of "that letter," which no doubt operated wonderfully upon his delighted constituency in the gallery.

Marshall M. Strong moved that the committee rise and report progress, which motion prevailed, and the committee rose and obtained leave to sit again.

The convention then adjourned.—*Express,* Oct. 20, 1846.

THURSDAY, OCTOBER 15, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday [was] read and corrected.

Mr. Kellogg moved that Mr. Henry Barnard be invited to take a seat within this hall during his stay in this place, which was agreed to.

The resolution in relation to electing an additional secretary was taken up, when Mr. Dennis moved that it be laid on the table, which was agreed to.

Mr. Magone moved that John H. Tweedy, a member of this convention from the county of Milwaukee, be admitted to his seat, which was agreed to.

Mr. Baker offered the following resolution, which was read, to wit: "*Resolved,* That there shall be paid to the printers at Madison, who furnish newspapers to the members of this convention under the resolution adopted by the convention, six cents apiece for such papers, and for reporting and publishing therein the proceedings of this convention."

The resolution relative to the adjournment of this convention was then taken up, when Moses M. Strong moved to strike out of said resolution the words "Monday, the twenty-sixth of October," which was agreed to. Moses M. Strong then moved to fill the blank with the words, "Monday, the second day of November." Mr. Kellogg moved to lay said resolution on the table. Moses M. Strong called for the ayes and noes, which were not ordered. And the question having been put on laying said resolution on the table, it was decided in the affirmative.

Moses M. Strong's resolution to adjourn in three weeks from the commencement of the session was taken up. Mr. Strong remarked that the convention had been so dilatory so far that he had abandoned all hope of their being able to close their labors at so early a day as that named in the resolution, but he thought it absolutely necessary to appoint some day for adjourning.

Mr. Kellogg moved that the convention adjourn when they get through their business. He did not believe it possible to determine on what precise day the convention could conclude their sitting, and he was averse to naming any particular time; he thought that when the convention did get through they would adjourn and go home.

The resolution was laid on the table indefinitely.—*Express,* Oct. 20, 1846.

The resolution relative to printing 150 copies of the late census was then taken up and adopted.

The resolution relative to taking life by hanging or otherwise was then taken up, when Warren Chase moved that said resolution be referred to the committee on miscellaneous provisions not embraced in the subject committed to other committees, which was agreed to.

The resolution offered by N. F. Hyer calling upon clerks of the several courts of the territory for certain information was taken up, when Mr. Doty offered the following amendment, which was accepted by Mr. Hyer, to wit: "And that the secretary of this convention transmit to each of the clerks of the district courts a copy of this resolution."

A. Hyatt Smith offered the following amendment, to wit: "And that such information be furnished without charge to the territory or state of Wisconsin." And the question having been put on said amendment, it was decided in the negative.

Moses M. Strong offered the following amendment, to wit: "And that the said clerks be paid a reasonable compensation therefor," which was adopted. And a division having been called for, there were 43 in the affirmative and 38 in the negative.

Moses M. Strong offered the following amendment, to wit: "And that said clerks also furnish a statement of the number of criminal prosecutions and the number of convictions and the number of acquittals and the number of nolle prosequi's and the costs in criminal cases," which amendment was accepted by Mr. Hyer as a modification to the resolution.

The hour for considering resolutions having expired, Mr. Magone moved that all rules preventing the further consideration of the resolution now be suspended, which was agreed to. And a division having been called for, there were 82 in the affirmative and 2 in the negative.

Mr. Elmore moved to amend the resolution by striking out the words "nolle prosequi" in said resolution.

Mr. Gray demanded the previous question, on which demand a division was called for. And there were 66 in the affirmative and 13 in the negative.

The question was then put, "Shall the main question be now put?" and was decided in the affirmative. And a division having been called for, there were 69 in the affirmative, negative not counted.

The question was then put on the adoption of said resolution as amended, and was decided in the affirmative. And the ayes and noes having been called for, those who voted in the affirmative were [affirmative 97, negative 12; for the vote see Appendix I, roll call 6].

The resolution calling upon the clerks of the courts of three several counties for information was next in order, when Mr. N. F. Hyer said a resolution he had offered some days since, which covered this resolution, should have precedence.

The resolution was called up, and he supported it at some length.

Mr. Beall advocated the resolution.

Mr. Kellogg wished to know how they were to obtain this information and what expense the convention would be to for the same.

Mr. N. F. Hyer supposed it would be only the postage necessary to send to the different officers. He thought the officers would be willing to furnish the desired information without charge.

Mr. Kellogg had learned that it was not the highest salaried officers that were the most willing to work for nothing. He hoped some guards would be thrown around this before it was adopted.

Mr. Judd thought it was a mere request, and the idea of expense had not occurred to him. He was not unacquainted with such matters in other states, and he had never heard of such a thing as a charge for such information. If the officers chose to comply, they could, or not, as they pleased.

The debate was continued by Messrs. N. F. Hyer, Chase, Lovell, Tweedy, A. Hyatt Smith, Ryan, Strong of Iowa, and Elmore. Several amendments were offered, some of which were adopted, and others lost. The amendments added the following to the resolution as before published: "And that said clerks also furnish a statement of the number of criminal prosecutions, the number of convictions, the number of acquittals, and the number of nolle prosequi's, and the cost in criminal cases; and that the said clerks be paid a reasonable compensation therefor; and that the secretary of the convention transmit to each of the clerks of the district courts a copy of this resolution.—*Democrat,* Oct. 17, 1846.

Mr. N. F. Hyer's resolution calling upon the clerks of courts for information as to the number of suits commenced, suits disposed of, and costs collected in their respective courts was taken up.

Mr. Kellogg wanted to know how the information was to be obtained. If it involved any expense to the territory, he would oppose it; but if not, he would not object to it. He thought the clerks should be plainly told that they were to receive no com-

pensation, and then there would be no difficulty about it, as those who were disposed to furnish the information gratuitously would so, and those who were not would refuse.

The utility and practicability of this measure were discussed at considerable length by Messrs. Kellogg, Judd, Chase, Lovell, and others, and after being amended by Messrs. Doty and Moses M. Strong it was carried, ayes 97, noes 12.—*Express*, Oct. 20, 1846.

The convention then resolved itself into the committee of the whole for the consideration of No. 1, "Article relative to banks and banking," and the minority report thereon, Mr. Agry in the chair. And after some time spent therein the committee rose and reported that they had had said article under consideration and had made progress thereon, and asked leave to sit again. Leave was granted.

Mr. Magone moved that the convention adjourn until two o'clock, P. M., which was agreed to.

The convention went into committee of the whole, Mr. Agry in the chair, on banks and banking.

BANKS AND BANKING

Mr. Hicks obtained leave so to modify his amendment as to read as follows: "Strike out all after the first section and insert:

" 'Section —. The legislature shall have no power to confer in any manner or form upon any person or persons, corporation, or institution of any kind any banking power or privilege; nor any power or authority in any manner or form to make, sign, or issue within this state any paper money, bank note, bill, order, check, certificate of deposit, or any other evidence of debt intended to circulate as money.

" 'Section —. No person, or persons, corporation, or institution of any kind shall ever make, sign, issue, pay, give, or receive in payment any paper money, bank note, promissory note, certificate of deposit, or other evidences of debt intended to circulate as money, which shall purport to have been issued either within or out of this state.' "

The discussion of yesterday was continued between Messrs. Chase, Hunkins, Hiram Barber, Ryan, Dennis, Steele, and Hicks.

Mr. Burchard claimed the same privilege as the other gentleman who had preceded him to make a few remarks upon this question. In the first place he would state that he could not vote for the majority report, the amendment of the gentleman from Iowa, nor the amendment to the amendment offered by the gentleman from Grant; neither could he support the minority report. He would explain by frankly avowing himself a bank man, and in favor of a well regulated banking system. A wrong impression had been thrown out here, and he felt it incumbent upon himself to set this matter right. The gentleman from Dane (J. Y. Smith) had asserted that banks and banking were Whig measures—that the Democracy wiped their hands of the whole system. The gentleman had gone back three or four presidential elections to find where the lines were drawn of bank and no-bank parties. He did not view the matter in this light, and it was due to him and the Whig party to deny the statement in toto, and he would endeavor to make it appear that the banking system originated with the Democratic party and is now supported by them; the most prominent Democrats in the ranks were in favor of banks. In the state of New York there are over two hundred banking institutions! And he would inquire who created them? Did the Whigs create these banks? No! He asserted without the least fear of contradiction that nine-tenths of them were chartered by Democratic legislatures, and that nine-tenths of the stock of these banks went into the hands of good Democrats, and if it had since come into the possession of Whigs, it had been by right of purchase from these antibank Democrats. Much had been said during this discussion of the wildcat system of banking in Michigan, and he would ask who created them? The gentleman was not aware whom the wicked Whigs bought up, when he said this was a Whig measure. He did not know, probably, that these banks were chartered by a Democratic legislature. Much had also been said about the banking system in our own territory, in connection with this question. He proposed to look into the

banking system in Wisconsin and see who brought it into existence—who were its fathers! Who was the father of the Miner's Bank of Dubuque? Its charter was signed and approved by Henry Dodge? (Moses M. Strong interrupted him by saying it passed the legislature by a two-third's vote.) If he was opposed to banks why did he not veto it? He read an act to incorporate the Fox River Hydraulic Company, signed by "Henry Dodge," approved December 3, 1836. An act to incorporate the Bank of Mineral Point, approved December 2, 1836, signed, "H. Dodge." An act to incorporate the Bank of Milwaukee, approved November 30, 1836, signed by "H. Dodge." An act to incorporate the Bank of Wisconsin, approved December 20, 1836, signed, "H. Dodge." An act to amend an act to incorporate the Fox River Hydraulic Company. An act to incorporate the stockholders of the Bank of Wisconsin at Prairie du Chien, approved January 17, 1838, signed by "H. Dodge." An act to incorporate the State Bank of Wisconsin, approved February 25, 1839, signed, "H. Dodge." At the session commencing December 1837, there were twenty-three acts of incorporation granting exclusive privileges passed, besides eight laws granting the exclusive right to ferry; at the special session commencing June 11, 1838 two acts of incorporation; at the session commencing December, 1838, nineteen acts of incorporation — all approved by "H. Dodge." At the session commencing December 1837, there money, pledging the faith of the territory," to pay the expenses of the legislature, in the years 1836, 1837, and 1838. The people had been and are now being taxed to pay portions of these loans. Henry Dodge was considered a good Democrat even at the present day, and could he be called an antibank man? He would appeal to the gentleman from Dane which was the bank party in Wisconsin? A great deal has been said on both sides of the house about "hards" and "softs," "crawfish" and "tadpoles." He supposed these terms meant something, but he did not understand their meaning. He had inquired their meaning out of the house, and been told they applied to certain men who were Democrats. He would like to know where this new light came from? The great Democratic champion of

the territory had sounded the tocsin, and he, in 1839, was a bank man; where did this new light come from? When did the great change come over the party? If we believed anything, we must admit that the Democrats were bank men. It had been asserted that he could not find a bank man among the Democrats! They were all "hard," and some of them "very hard," as the gentleman from Dane would have us believe. He hoped to make it appear otherwise, however, and quoted the following sentiments of distinguished Democrats to support his position:

"I have waived my own objections to a bank, and the proof that I did so lies in the fact that I suffered the bank that existed in my administration to extend its branches and multiply its offices. THOS. JEFFERSON."

"I also surrender my creed to the determination of the Supreme Court, and the acquiescence of the country.

JAMES MADISON."

"That a bank of the United States, competent to perform all the duties required, may be so organized as not to infringe on our own delegated powers, or the reserved rights of the states, *I do not entertain a doubt.* Had the executive been called upon to furnish the project of such an institution, the duty would have been cheerfully performed. ANDREW JACKSON."

"I might say with truth that the bank owes as much to me as any other individual in the country; and I might even add that had it not been for my efforts, it would not have been chartered. JOHN C. CALHOUN."

"Of the constitutional power of the national government to create a *bank,* I did not then, nor do I now *entertain a doubt.* Of the ability of Congress to create such a bank as would be a safe machine of finance and serviceable agent in preserving a sound currency, I then was as I am still *convinced.*

GEORGE M. DALLAS."

J. T. Leath and others put the following interrogatories to Mr. Polk, viz: "1. Are you in favor of a mixed currency of paper money and the precious metals? 2. If so, from what source should paper money emanate—from the state government or general government.?"

"I answer, that I am in *favor of such a currency.* The states, having exercised the power of chartering banks of issue from an early period of the government, and with the general *acquiescence of the people,* all must expect and concede that there must and will continue to be *state bank paper circulation,* whether a national bank exists or not. I am therefore in favor of a currency to consist of the precious metals and the paper of specie paying state banks, convertible on demand, into specie.

JAMES K. POLK."

Marshall M. Strong rose to a question of order, whether it was in order to read from written documents during the pending of a debate.

Mr. Burchard continued reading and did not yield the floor. He said he had not risen to detain the convention by a speech, but to correct a wrong impression thrown out by the member from Dane, that the leaders of the Democratic party had always been opposed to banks and banking. Andrew Jackson had no objection to a United States bank and thought it would be a good and useful institution if he could have a hand in framing its charter, but when he thought his dignity had not been sufficiently reverenced by not allowing him to meddle in the matter he had hurled his veto at it and annihilated it. But he would come down to men who now live and are looked up to as leaders of the Democratic party and would ask the member from Dane if John C. Calhoun, Martin Van Buren, James K. Polk, and George M. Dallas were to be considered leaders, or should be placed in the rank and file of the party? He thought the President was looked up to as the very head and front of the party. He only wished to set the gentleman from Dane right in this matter—to place the saddle on the right horse. He came here as a Whig and would defend so far as able the principles of the party with which he was identified.

Mr. Moore made some remarks, when the question on the adoption of Mr. Hicks' amendment was put and lost.

Mr. Baker then offered the following as a substitute for the amendment of W. R. Smith:

"Section 2. The legislature shall have no power to create, authorize, or incorporate any bank or other institution or corporation having any banking power or privilege whatever.

"Section 3. The legislature shall have no power to confer upon any person or persons, corporation, or institution, any banking power or privilege whatever.

"Section 4. The legislature shall at its first session after the adoption of this constitution prohibit, by law, under severe penalties, individuals and corporations, and the officers and agents of corporations from issuing bills, checks, drafts, certificates of deposit, promissory notes, or other paper intended to circulate as money.

"Section 5. The legislature shall, at its first session after the adoption of this constitution, also prohibit by law, under severe penalties, all corporations, the officers and agents doing the business of buying and selling bills of exchange, receiving deposits of money, making discounts, or exercising any other banking powers or privileges."

Mr. Baker explained his reasons for offering his substitute at some length.

W. R. Smith took the floor in support of his amendment. He showed up the moves of the Retrogressives from the opening of the session to the present time—from when the member from Racine had endeavored to define the usage of caucus to "cork us"—the calling for the ayes and nays on the question of printing 2,000 copies of a report of one of the committees, which his colleague avowed was for the purpose of distinguishing the Young and Old Democracy and the Crawfish. Next the report of the committee on banks and banking, when all who did not choose to support the proposition with all its crudities and imperfections were called bank men, and "hards" and "softs" were thrown around the room like small shot, to see who would be hurt. Mr. S. alluded to the change which had come over Marshall M. Strong, since he so strongly favored the banking system in the columns of the Racine *Advocate* (Mr. Strong explained that it was done by a journeyman in the office, without his knowledge) of which he was the ostensible editor. He also spoke of the recent great change in the political creed of Mr. Bevans; he thought on this earth there ought to be great rejoicing over a sinner who repented of his political sins, and was therefore glad to hail the gentleman as a new disciple of the creed he had adopted.

Some gentlemen had said there was a desire in his amendment, some hidden intention to favor private banking. These gentlemen surely cannot read, or if they can read, are unable to comprehend, and he thought it a hard matter that he should be expected to find words and comprehension both. The prohibition was strong enough in the fourth section of the amendment, which strictly prohibits the legislature from authorizing or countenancing private banking.

The convention then adjourned to two o'clock.—*Express*, Oct. 20, 1846.

BANKS AND BANKING

(Speech of Gen. Wm. R. Smith, in committee of the whole, October 15, 1846)

Mr. President: At length we are approaching land, and I shall soon assist in bringing our boat to the shore, heavily laden as it is with the propositions, amendments, and discussions of many days' debate.

I am pleased to say that the committee, as well as myself, will be relieved from a long speech on the merits and demerits of the article as reported by the chairman of the committee on banks, together with the substitute as offered by me, and the proposed amendments to both. The remarks of my friend from Grant (General Burnett), who yesterday appeared for the first time in his seat, have so fully and ably placed all the propositions in their proper light and position that any further observations from me have been rendered unnecessary. He came here fresh and with his sound mind unburdened with our various discussions, and he has taken up the whole matter with such ability that I could not add weight to his argument, and I would not lessen its effect by any remarks of my own.

But still a remnant has been saved for me, and I shall take this occasion to return some trifles which have been so gratuitously lent to me by several gentlemen who have participated in this debate. The debt I seek to pay is to the two gentlemen from Racine (Messrs. Ryan and Strong), the gentleman from Rock, before me (Mr. A. Hyatt Smith), the gentleman from

Grant, on my right (Mr. Bevans), the gentleman from Dane (Mr. John Y. Smith), and my colleague (Mr. Strong) whom I do not see in his seat. (Mr. Strong called from another part of the house that he was present.)

Our long discussion has arisen out of the abundant benevolence of the gentleman from Racine (Mr. Ryan) in giving us something to do. How did the report come into the convention? A committee was appointed in the evening of one day, and the next morning a report is presented, which, according to the gentleman's own statement, was drawn up by himself, shown to his fellow members of the committee, dissented from by one, not deliberated on in committee, but merely out of his beneficence to give the convention something to do he makes the report with all its crudities and imperfections, which are thus readily accounted for, and he has gained his desire, for truly we have had enough to do.

Sir, when we came here, we counted more than one hundred Democrats in the convention. We had more than eighty on the first day—Democrats prepared to go to their work—ready for the muster of rank and file—but in the estimation of some would-be leaders the muster alone was not sufficient—they must also have a drum for the company, and he was no Democrat who did not at the sound of the drum march up to the halberd of the drill sergeants.

Who first beat the drum and sounded the alarm? The gentleman from Racine (Mr. Ryan). We were told that we could not go into an election for president until the Democratic drill was had—that is, that we could not trust "ourselves," and those who then told us that we could not trust "ourselves" are the very men who now say that "they are afraid to trust the people." Consequently a caucus was to be called.

It is not unprofitable to look back some years. In 1807 Stephen Roe Bradley, then a United States senator from Vermont, at the close of the session at Washington called a meeting of the Democratic members of both houses of Congress to hold a caucus, in order to select candidates for president and vice president of the United States. This was a deviation from the old mode of having those officers selected in the several

states according to the constitution, and it produced an unanimity of action which resulted in the election of the respected and venerated Madison.

This was the first introduction of the term "caucus" in politics, and I believe the first time it was thus used. Whatever be its derivation, the term in our day seems not only to have lost its original meaning, but also its mode of spelling—it now is compounded of two words, "cork us"; that is—seal us up hermetically, ready to be unbottled and let out at the will of our file leaders. But I, for one, respond to no such action. I am not willing to be "used" when "wanted." I act on my own responsibility and follow no drill sergeant.

Who next sounds the drum? My colleague (Mr. Strong of Iowa). He beats his call on "Old Hunkers," "Young Democracy," "Progressive Democracy," and "Crawfishing," and this on the small question of printing two thousand copies of a report,—I believe this the same bank report now before us.

But when these primary matters had been disposed of, and the famous bill of pains and penalties, which was to give us something to do, was taken up in convention, I offered a substitute. This did not suit the leaders. They complained that I did not cover all their ground—that I did not meet all their propositions! Wonderful cause of complaint, indeed! Sir, if I proposed a substitute or an amendment which met my own views, if I covered as much of their bill of pains and penalties as I chose to take in, it was my undoubted right to do so. Why should complaint be made? If I had embraced and embodied all the crudities and imperfections of the bank report in my substitute, it would have become identical with the bill of pains and penalties itself, and subject to the same objections.

Sir, the drum is once more called into service; it is beaten long and loud—terms of "hard" and "soft" are bandied about as numerous as small shot, in order, as I once before observed, to see who could be hit or hurt. But, sir, the call appeared to me unnecessary—the whole body of the Democracy who caused this convention to assemble had spoken—the mere question of bank or no bank, in the constitution, had long since been settled; whether the legislature should or should not have

the power to grant bank charters or banking privileges was a foregone conclusion—on this subject the Democracy were all united. It was unnecessary to beat their drum to rally Democrats on this question, unless there was an undercurrent in motion which it had become necessary for all the well-drilled to follow, at the risk, on refusal, of being called a bank man. I believed this undercurrent to be in motion, and I saw the source whence it flowed, but I did not choose to follow its course or to be swept by it even at the risk of being called a bank man. I can afford to run that risk.

But called so by whom, sir? By those who come here with their articles of a constitution ready, cut and dry, in their breeches pocket, which we must be drummed up to swallow—crudities, incongruities, imperfections and all—under the high pains and penalties of being shut out from worship at the temple of the Magnus Apollo from Racine (Mr. Ryan), the great Sun of Democracy!

Sir, there are many ministering priests in this temple who officiate at the tripod and assume to be the true interpreters of the Delphi[c] oracle. The two gentlemen from Racine—the gentleman from Grant so lately a convert to the true faith—the learned gentleman from Rock, my colleague, and the gentleman from Dane who holds the high station of "promulgator" and "publisher" of all the oracles to the ignorant world. Now as to these officiating ministers, how long is it since many of them (except my colleague whose course I have known for near ten years) were in favor of banks? How long since they have become the exclusive guardians of all the antibankism of the Democratic party?

Sir, I understand that it is only a very few years since certain publications in favor of banks appeared in a newspaper of which the gentleman from Racine on my left (Strong) was ostensibly the editor.

(Mr. Ryan explained and said that it was false; he was not the author of them.)

I do not allude to the gentleman from Racine on my right (Ryan). I have heard the gentleman from Racine (Ryan) deny this matter before—I am bound to believe him—I have said

that the publications appeared in a Racine paper of which the gentleman on my left (Strong) was ostensibly the editor.

(Mr. Strong rose to explain—he said he had no recollection of such articles while he was editor; if put in it was by the journeyman.)

I am bound to receive his explanation. But in referring to the gentleman from Grant (Mr. Bevans) I know that it is right and just that even on earth we should rejoice over one sinner that repenteth, and as he has joined our ranks, I hail him as a convert to Democracy, but still I cannot help observing that within the little space of two years the gentleman has acted with the universal "Whig party" who have, as such, always been in favor of banks.

(Mr. Bevans explained that he had not for some years been a bank man, but that he had acted with the Whig party from his youth, until perhaps a year or three years past.)

How long is it since the gentleman from Dane has left the Whig party and joined the Democracy?

(Mr. John Y. Smith said he had never "voted" a Whig ticket.)

I speak of his associates. Be it so, as to his "vote."

Now as to my colleague (Strong); what I am about to say is not to his disapprobation on this subject—as to what has already passed between us perhaps I returned as much as I received. But I speak of times when we fought side by side against banks and in favor of the "hard." Although we had a fierce combat to meet, yet we had many excellent coadjutors—men who did good service in the cause—we should not assume to be leaders on that account. And it may not be improper here to say that an indefatigable ally was to be found in Beriah Brown. He traveled over the mining region in the lower part of our county on foot, stirring up the miners, and induced a meeting to be held at Hard Scrabble, of which he was secretary and reported the resolutions, by which the whole of the southern miners of our county of Iowa determined to receive nothing but gold and silver for their mineral and lead. The impetus here given spread over the county, and my colleague most certainly in that important contest fought nobly, valiantly, and victoriously.

(Mr. Strong said that the Mineral Point meeting was first.) I care not—first or last—we all fought together.

Sir, we are here in this discussion tendered a false issue—as Democrats this false issue deserves to be reprobated by us. It is not an issue of bank or no bank—but it is an issue on the question of engrafting a bill of pains and penalties on our constitution or of leaving the enactment of penal statutes to their legitimate source, the legislature.

The introduction of my substitute roused the ire of the exclusive file leaders. I was placed for a time in the situation of poor old Lear:

> The little dogs and all—
> Tray, Blanche, and Sweetheart,
> See, they bark at me!

Sir, I might naturally expect opposition, but I also expected to meet with such opposition in the examination of my proposition fairly and to have its merits and its imperfections set forth properly in their respective positions of right and wrong. I have been mistaken. The gentleman from Rock before me (A. H. Smith) in all the astuteness of his legal wisdom and with all the keen vision of a deep searcher into affairs, not being able to find tangible defects in my substitute, spies out "intentions!" He cannot see what is plainly set forth in language not to be misunderstood in the substitute, but he actually discovers what is out of it, and in loud and learned argument attributes to me secret intentions of covering and protecting private banking! The gentleman from Grant (Bevans) follows the Attorney General and does the same.

Sir, I had supposed that when I declared my sentiments to this convention on the subject of banks—when I had reduced those sentiments to writing, in the shape of a substitute and amendment—when the distinct section which prohibits expressly all private banking was printed and spread before the members of this committee, I should at least have escaped the accusation of having a concealed intent. (Mr. Smith here read the section prohibiting individuals, etc., from issuing notes.) Now this whole matter can scarcely be misunderstood by any candid mind. I know the gentlemen can write, but can they

read? If they can, I do not believe they can comprehend, and I am not bound to find words and comprehension also. If I am wrong in regard to their acquirements, then their observations must proceed from want of courtesy; and sir, when courtesy does not exist, I cannot expect it; when it is not voluntarily conceded I never ask for it. But I do not envy either of the gentlemen their sentiments or their judgments; neither do I regret their expression of them. But I protest against the belief of the gentleman from Rock being uttered for the whole convention, as he has desired.

(Mr. Bevans explained, and disclaimed any intention of discourtesy.)

Again, Mr. President, the gentleman from Rock, following up the great subtlety of the gentleman from Racine (Ryan) has discovered the impropriety of the use of two words, "create" and "possessing." They say, "Whoever heard of the legislature or the constitution creating an individual?" And "possessing" is ungrammatical where it is used! My answer is briefly this: The word "create" is coupled with "incorporate" and "authorize," which may well apply to an individual, and, at all events, without descending to ribaldry. I have generally understood that good constitutions could best create individuals, and as the propositions were always open to amendment the mere verbiage in so trifling an objection was of no importance. As to the word "possessing"—it could be well amended by the words "to possess." Such hypercritics were always sticking in the bark; they never went into the solid wood, the real substance.

The gentlemen raise shadows, and like Don Quixote they mistake windmills for giants, and valiantly placing their lances at rest they run a tilt at them—I shall leave them to their diversion.

But, sir, as to the amendment—to the substitute as proposed by my friend from Walworth (Mr. Baker)—I am well satisfied with it, provided it embraces the several provisions and covers the substance of the substitute; as such I shall support it, because I am only anxious to have the question taken on the real merits of the several matters on which the committee have dif-

fered. I am not ambitious of having my substitute adopted. I have broken the ground of resisting the adoption of the bill of pains and penalties, and the amendment of the original report in any proper manner, or the adoption of the substitute, or the amendments of the gentleman from Walworth shall all or either meet my approving vote, so as to get out of committee with our proceedings into convention, when we shall have an opportunity on all occasions of recording our names on all and every proposition offered. Mr. President, I have done; I hope the vote will immediately be taken.—*Democrat,* Oct. 24, 1846.

TWO O'CLOCK, P. M.

The convention resolved itself into the committee of the whole on article No. 1, "Article relative to banks and banking," and the minority report thereon. And after some time spent therein the committee rose and reported the said article back to the convention with amendments.

Mr. Ryan then moved to amend the report of the committee by striking out all after the third section and inserting as follows:

"[Section] 4. No person or persons, corporation, or institution whatever shall, under any pretence or authority whatever, in any manner or form whatever, make, sign, or issue within this state any paper money, or any bank note, promissory note, bill, order, check, certificate of deposit, or other evidence of debt whatever, intended to circulate as money; and any person or persons, or any officer or other agent of any corporation or institution so doing shall, upon conviction thereof, be fined in a sum not less than $10,000 and imprisoned in the penitentiary not less than five years.

"[Section] 5. No person or persons shall utter, pass, or pay, or give, offer, or receive in payment any paper money, or bank note, promissory note, bill, order, check, certificate of deposit, or other evidence of debt whatever, intended to circulate as money, which shall purport to have been issued in this state before or after the adoption of this constitution, by any person or persons, corporation, or institution whatever, and any person or persons so doing shall upon conviction thereof be fined in a sum not less than five times the nominal amount so uttered, passed, or paid, or given or received in payment in each case.

"[Section] 6. No corporation within this state shall exercise the business of receiving deposits of money, making discounts, or buying or selling bills of exchange; and any officer or other agent of any corporation so doing shall, upon conviction thereof, be fined in a sum not less than $5,000, and imprisoned not less than two years.

"[Section] 7. No branch or agency of any bank or banking corporation or institution of the United States or of any state or territory within the United States, or of any foreign country, or of any person or

persons doing banking business without this state shall be established or maintained within this state, or shall issue [any] paper money, bank note, or other evidence of debt whatever intended to circulate as money, or receive deposits of money, make discounts, or buy or sell exchange, or exercise any other banking power or privilege whatever in any manner or form within this state; and any officer of any such branch or other agent of any such bank, corporation, or institution, person or persons so doing shall, upon conviction thereof, be fined in a sum not less than $5,000 and imprisoned in the penitentiary not less than two years.

"[Section] 8. It shall be the duty of the legislature from time to time, as may be necessary, to pass all acts and acts requisite to enforce any provision of this article."

Mr. Ryan called for the ayes and noes on the adoption of said amendment, which was ordered.

Mr. Judd moved a call of the house, which was ordered, and Messrs. Bowen, Fitzgerald, Mills, and Pierce were found absent. Mr. Dennis moved that Mr. Bowen be excused from his attendance in the convention, which was agreed to. On motion of Mr. Magone, Mr. Fitzgerald was excused from his attendance in the convention. (On motion of Mr. Noggle, Mr. Mills was excused from his attendance in the convention.) Mr. Judd moved that further proceedings under the call be dispensed with, which was agreed to.

Mr. Doty called for a division of the question. And the question having been put on striking out all after the third section of the report of the committee of the whole, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 34, negative 73; for the vote see Appendix I, roll call 7].

Moses M. Strong moved to amend the report of the committee of the whole by adding the following as section 6, to wit:

"Section 6. No person or persons, corporation, or institution whatever shall, under any pretence or authority whatever, in any manner or form whatever, make, sign, or issue within this state any paper money, or any bank note, promissory note, bill, order, check, certificate of deposit, or other evidence of debt whatever intended to circulate as money, and any person or persons, or any officer or other agent of any corporation or institution so doing shall, upon conviction thereof, be fined in a sum not less than $10,000, and imprisoned in the penitentiary not less than five years."

And the question having been put on the adoption of the said amendment, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 34, negative 72; for the vote see Appendix I, roll call 8].

Mr. Noggle moved to amend the report of the committee of the whole by adding to the fourth section as follows:

"And the legislature shall, at the first session after the adoption of this constitution, provide by law for the punishment in the state prison and by fine [of] any person or persons whatever, who shall violate any of the provisions before mentioned in this article.'

And the question having been put on the adoption of said amendment, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 40, negative 63; for the vote see Appendix I, roll call 9].

Mr. Ryan moved to amend the report of the committee by inserting the following additional section, to wit:

"Section 6. No person or persons shall pass, pay, or give, offer, or receive in payment any paper money, bank note, promissory note, bill, check, order, certificate of deposit, or other evidence of debt whatever intended to circulate as money, issued without this state, after the year 1847, of any denomination less than $10 nor, after the year 1849, of any denomination less than $50."

And pending the question on the adoption of said amendment, Mr. Dennis moved a call of the house, which was ordered, and Messrs. Burnside and Pierce reported absent, when, on motion, further proceedings under the call were dispensed with.

The question was then put on the adoption of the said amendment, and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 56, negative 49; for the vote see Appendix I, roll call 10].

Mr. Beall then moved further to amend the report of the committee by inserting the following as a substitute therefor:

"Section 1. The legislature of this state shall not have power to grant any special bank charter or confer any special banking privileges whatever.

"Section 2. All banks are, and all banking of any description whatever, either general or special, is forever prohibited within this state (except such as is hereinafter provided for).

"Section 3. No law authorizing banking in any manner or under any pretext whatever shall ever be passed by the legislature of this state, except the said law be general in its terms, and conveying rights equally to every citizen, and shall be adopted in the following manner: The proposed law shall pass through the ordinary forms of legislation, the yeas and nays being taken and entered at large upon the journal of the legislature, and if adopted by them shall be published fully and distinctly in six weekly newspapers located in different sections of the state for thirteen weeks in succession next preceding any general election, and shall then be submitted to the people, and, if approved by a majority of the electors of this state at such election, made to appear by the return to the proper office as shall be provided for the election of members of Congress of the United States, then the said act shall become a law of the land, subject to be repealed, altered, or amended in the same manner as is provided for enacting the same,

and no other way. Provided, always, the private and individual property of the stockholders of any and all banks established under this article shall be liable for all debts contracted or notes or bills issued by the corporation or institution of which they shall be stockholders, in like manner and to the same extent as for other indebtedness, and for the term of one year after the transfer of their stock shall have been made.

"Section 4. No person or persons, corporation, or institution within this state (except such as are expressly authorized by law herein provided) or any agent of any institution, corporation, or person of any other state or territory or of any foreign country shall issue within this state any bills, promissory notes, certificates of deposit, or other evidence of debt whatever intended to circulate as money, under the penalty of the forfeiture of an amount equal to the amount so issued, and such other penalty as shall be by law provided.

"Section 5. No corporation within this state, other than those provided for in this article, shall receive deposits of money, make discounts, or buy or sell bills of exchange.

"Section 6. The legislature of this state shall have full power to pass all necessary laws to carry into effect the provisions of this article."

And pending the question on the adoption of the said amendment, Moses M. Strong moved to adjourn to seven o'clock this evening.

On motion of Mr. Magone the convention adjourned.

Mr. Beall got the floor after much trouble and offered his amendment, whereupon ensued a scene of disorder and confusion which we imagine but rarely occurs in such august bodies as conventions for the framing of constitutions, and which we sincerely hope never to witness again during this session. Mr. Beall retained the floor, when Moses M. Strong rose to a question of order; the Chair decided Mr. Strong's question was not entitled to raise a point of order; Mr. Beall insisted upon his right to offer his amendment; Mr. Strong appealed from the decision of the Chair; the Chair altered his views upon the question in dispute, and upon motion the convention adjourned.—*Express,* Oct. 20, 1846.

BANKS AND BANKING

(Speech of A. W. Randall, October 15, 1846)

Mr. Chairman: The question before the convention is one of some importance. It is a question which has occupied much of the attention of the great political parties—and the question of no banks by legislative chartering has been one of the watchwords of the great Democratic party. The majority report of the committee on banks and banking, with its proposed amendments, however, deserves serious consideration. This report presents to us a perfect anomaly in the history of banking restrictions. It has been conceded on all hands and is now conceded that an article should be incorporated in the constitution of the state of Wisconsin prohibiting the legislature from granting bank charters or special banking privileges. In the county which I have the honor in part to represent the Democratic party have taken this ground, and as far as I have been able to ascertain from the public prints and other sources, this is the ground universally taken by the Democratic party in this territory. This position, assumed by the Democrats in every section of the country, I fully accord to. Thus far will I go and no farther. Sir, I was not here at the meeting of this convention or on the first week of its session. I have no personal knowledge of the differences and difficulties that arose among the members of the convention in the election of officers or appointment of committees, and therefore know little of the true causes of the personal and sectional prejudices that have arisen here, and which seem peculiarly to have shaped the course and conduct of members. A partition wall has been builded up here which appears to keep asunder certain parties. Sir, I know little of these divisions, and I care less. I was not sent here to build up a particular political party, or to attach myself to either wing of the party to which I belong. I care nothing and know nothing of your "hards," "softs," Tadpoles, Old Hunkers, Barnburners, or any other political branch of this body. I was sent here to assist in framing a constitution—a fundamental law for the state of Wisconsin—

and I intend so to act here as in my opinion will best conduce to the interests of the whole state—the general universal interest. I conclude, sir, that, although we were sent here from different counties, and in a measure bring with us the peculiar sectional views of those different counties, as a conventional body we represent the wishes of a great state and are bound to act for the interest of that state. Our action then should not be characterized by any narrow prejudices, by any overweening selfish ambition, or by any political party considerations. A great important fundamental law is to be made by us, a law which for good or for evil will have an important bearing upon the rights, interests, and duties of the people.

It has been remarked here by the gentleman from Racine (Mr. Ryan) that the different articles which we propose to incorporate into our constitution are mere declaratory propositions having no positive force of themselves, and having no bearing upon the people, except as a mere detail of rights. This is a narrow view, it seems to me, of the constitution of a state; I see it through a different glass. I look upon our state constitution as standing in the same relation to the laws and rights of the people as the foundation is to the structure, as the base to the column. It is the great embodiment of the will of the people, the source of legislative and judicial and executive power—the great supporter of all our laws and state institutions. We fall back upon it when we seek our rights in courts of justice—we lean upon it as the bulwark of our political and civil strength—all our hopes are centered in it, and must be, so long as it stands the great general law of our young but vigorous state. Feeling as I do, therefore, I cannot look upon our duties here as of so low and ordinary a character as to make us reckless in regard to the incorporation of articles in this constitution, and I doubt, much doubt, the right or justice of the attempt to force by authority of law the adoption of newly developed political or civil principles until the mass upon whom they are to operate are fully prepared to receive them. It is well enough, yes, sir, it is right to advocate new and valuable propositions and principles in advance of public opinion. If your theories are good and have a bene-

ficial practical tendency, it is fit and proper that they be advocated—that they lead and direct public opinion—that they temper and mold that opinion. But, sir, when you come to legislate you must pursue a different course. You may reason and theorize in advance, but you cannot legislate in advance of the great public will. Your legislative action should ever be up even with the settled public will, but never beyond it. It is the will of the mass expressed in the opinions of the mass which gives the force to your law and ensures its proper application. You never can enforce a prosecution where the moral, political, or civil sense runs counter to the spirit of the act to be enforced. When you vainly attempt it, you run blindly or wilfully against a great wall—a wall of will—of interest—of passion—against which you cannot prevail. And, in regard to their probable bearing upon the different interests of our territory, all the different theories that may have found their way hither may not safely be relied upon as true guides; our most favorite opinions may not have a beneficial bearing. The knowledge of men's rights, interests, and duties, which we get from books, or which in "fancy dreams" have come across our minds, is poor foundation upon which to build the civil and political hopes of men.

I look upon this report as one of the vagaries, wild vagaries, chosen from the ten thousand loose doctrines, creeds, dogmas, and delusions by which in this progressive age we are all surrounded, and while speaking of progression let me suggest to gentlemen here who talk long and loudly of the progressive democracy that we take great care lest our progression be crab-like in its tendency. It is barely possible that we may progress backwards. In the report before us we are trenching upon legislative authority. We talk of Democratic features and are hurrying away from correct Democratic principles. I love to see men reaching after perfection. I love to hear of some newly discovered practical theory—some new-founded principle of important and valuable tendency. It proves the struggling, chafing labors of a great genius to unravel the hidden things that bear upon our interests.

The first three sections of this report are not particularly objectionable, though I think they could be much improved. But the balance of this report is of a most serious and singular character. A promissory note is a representation of value; a bank note, a bill, order, check, certificate of deposit are each of them a representative of value; gold and silver coin is a representative of value. For making, signing, or issuing a representative of value you propose in this fourth section to punish any person or persons or any agent of any corporation or institution by a fine of "not less than ten thousand dollars and imprisonment in the penitentiary not less than five years." Where do you get your evidence that any note, bill, check, certificate, etc., is intended to circulate as money? You judge the intention by the act. What is a circulation? It is a passing from hand in exchange for articles of purchase, or in the payment of a debt, or in the shape of a loan. What particularly characterizes these certificates, bills, notes, etc.? Why, sir, the fact that they are printed, have pictures on their face, and are numbered. Here then you have a beautiful picture—a man, whose careful business habits are such that he numbers and keeps a faithful record of his notes, who has his promissory notes printed, who perhaps may have a picture of his mill, his store, or any other business establishment on their face, and who gives to a creditor one of these notes to pay a debt, to buy a horse, to obtain a loan, shall be punished by a fine of ten thousand dollars and be imprisoned in the penitentiary five years. Any man of you who should be so unfortunate as to receive a bill or check on some moneyed man, the check or bill numbered, printed, or having a picture on it, and who trades that bill or check to some other for a horse, a cow, or for wheat, and that man in turn trades it for any necessary article of purchase, or merchandise, whatever the amount may be, shall be punished by a fine of ten thousand dollars and by imprisonment in the penitentiary five years. Any man who makes a deposit of money, and receives for it a certificate of such deposit, printed, with a picture of a house or store upon it, or picture of a ship upon it, and who trades it out for any article

he wants to buy, shall be punished by a fine of ten thousand dollars and by imprisonment in the penitentiary five years.

Gentlemen may talk as long and loudly as they please of such being a forced construction. Sir, those who would unblushingly propose such doctrines and attempt to enforce their observance by a positive law are capable of the most odious constructions, even if the construction I put upon it was forced, but it is not. Let any man who professes to have a knowledge of law examine this fourth section as it now stands, with his knowledge of the rules of evidence and construction in our courts of justice, and if he is an honest man he will tell that in each of the cases I have named the offender would be held guilty and convicted of a "crime made by law," when in fact no guilt could possibly rest upon him. Great, truly great is the mystery of legislative and political godliness foreshadowed in this report. Next in order comes stalking on the glorious fifth section. Listen! "No person or persons shall utter, pass, or pay, or give or receive in payment, any paper money, or any bank note, promissory note, bill, order, check, certificate of deposit, or other evidence of debt whatever, intended to circulate as money, which shall purport to have been issued in this state before or after the adoption of this constitution, by any person or persons, corporation or institution whatever; and any person or persons so doing shall, upon conviction thereof, be fined in a sum not less than five hundred dollars, or imprisoned not less than three months, or both." Superlative wisdom! Divine political philosophy! Great is the progressive wisdom of the age!

That man who borrowed the rags of the Bank of Wisconsin, or of Mineral Point, or of any other institution in this territory and who owes a note given for the same shall not, after the ratification of this constitution, pay his debt in the promissory notes of those ill-omened institutions under the penalty of a fine of five hundred dollars, or imprisonment not less than three months, or both. No officer, receiver, or agent of those decayed banks shall receive in payment of notes due any of the paper money issued by the institution to whom the note belongs, and for security for the payment of which that very

note was given, under the penalty of a fine of five hundred dollars or imprisonment in [*sic*] not less than three months, or both. Nay, further, what would be the situation of thousands in reference to what gentlemen here are pleased to call the detestable and damnable "Wisconsin Marine and Fire Insurance Company" in Milwaukee. Every man who holds in his hand a certificate or note of that institution like that with which this country is flooded, and who dares, after the adoption of this constitution, to present that certificate or note to Alex. Mitchell for payment of a debt due that institution, or to exchange for specie or otherwise, or who passes, buys, or sells, pays, or gives or receives in payment, any of those notes or certificates, or who in order to secure himself from loss returns such notes or certificates to the counter of that institution shall be punished by a fine of not less than five hundred dollars, or imprisonment not less than three months, or both. Sir, already the wisdom of the past, the protection of the present, and a farseeing providence for the future is seen in these provisions.

But let us look farther—aye, now the prospect brightens in the light of No. 6:

"No corporation within this state shall receive deposits of money, make discounts, or buy or sell bills of exchange; and any officer or other agent of any corporation so doing shall upon conviction thereof be fined in a sum not less than five hundred dollars and imprisoned not less than two years." Here, sir, is the crowning glory of this detestable report. The last part of section No. 6 does not specify whether the officer or agent of any corporation buying or selling any bill of exchange shall be punished for doing the act as agent or officer, or for doing the act—committing the crime—of buying or selling a bill of exchange in his own individual right. The proper and legal construction of this article is wisely and prudently left for after and more mature consideration. If a man is an officer or agent of a corporation—whether of a fire company, a city corporation, a mill company, a manufacturing company, or any other company—buys or sells in his own individual right, or for his own individual purposes buys or sells a bill of exchange on any foreign bank, or broker, or private individual,

even to save himself a journey of a thousand or two thousand miles, he shall be fined in a sum not less than five hundred dollars and imprisoned not less than two years. If he commits the crime in the capacity of agent or officer of any such corporation, then if he buys a bill of exchange to remit for the purchase of fire engine, or spindles and looms, or for machinery to be used by an incorporated company for manufacturing purposes, or for doing any other business within the legitimate scope of the corporate rights of that company, he shall be punished upon conviction thereof by a fine of not less than five thousand dollars and imprisoned not less than two years. Is not this beautifully absurd? Then here comes tailing on grave section No. 7, which makes it the duty of the legislature from time to time, as may be necessary, to pass all acts necessary to enforce the foregoing absurdities. Truly, sir, you have here progression with a vengeance. Here is accumulated wisdom; here is the real essence of the science of government; here salutary provisions, protecting, fostering, guarding with the strong arm of a fundamental law the rights and interests of the people. Was there ever a parallel to this? Search all history—that history which is the life of the past, a great record of human nature, so full of accumulated wisdom, folly, and passion, so full of the philosophy of life and human government—and nowhere within the pages of its volumes can you find more preposterous propositions—a greater *strength* of *weakness,* or any constitutional or statutory provisions of a more despotic character or tendency. Here has it first appeared to me that within the borders of a free state or territory, proud of her rights, stubborn in the protection of her interests, happily characterized for the energy and intelligence of her citizens, a species of contemptible despotism is to be built up and maintained, which like a millstone will hang upon the neck of her prosperity.

I come now, sir, to the amendments proposed to this report. One would reasonably suppose that to amend a thing was to improve it. This would be natural. But let us remember that this is an age of progression wherein the weaknesses and infirmities of the past are evidenced in the strength and vigor of the present.

AMENDMENT BY MR. HICKS

The first section of the amendment offered by the gentleman from Grant is similar to some of the original articles of the report. The second section takes a wider range and is doubtless intended to prevent everybody and everything from doing anything whatever. It reads thus:

"No person or persons, corporation, or institution, or any officer or agent of any corporation, or institution of any kind shall ever make, sign, issue, pay, give or receive in payment any paper money, bank note or promissory note, treasury note, certificate of deposit, or other evidences of debt intended to circulate as money, which shall purport to have been issued either within or out of this state. Any person, upon conviction, shall, for a violation of any of the provisions of this section, be fined in a sum not less than five thousand dollars and be imprisoned not less than two nor more than ten years."

Another proposition has been made to restrict the circulation of foreign bank notes of a certain denomination if the foregoing amendment fail.

Sir, it is only the knowledge of the fact that this is indeed a progressive age that warrants us in looking with the least allowance upon this report or its proposed amendments. It might, by a stranger to our country, be well understood as a death blow aimed at all the business habits of the country, blocking up all the channels of trade, and attempting to strangle our commercial interests in their comparative infancy. Here is an article of fundamental law proposed to punish a person, agent, corporation, or institution for paying or giving or receiving in payment a bank note, paper money of any kind, a promissory note, a treasury note, or certificate of deposit, under the severe penalty of a fine not less than five thousand dollars and imprisonment not less than two nor more than ten years.

Suppose, sir, today, you receive in payment of a debt the sum of one hundred dollars in bank notes, on what are called specie paying banks. Today it is a legal circulating medium; tomorrow, after this constitution is adopted with the above

clauses, your money is lost—you dare not pass it or pay it away—you must keep it in your pocket or the punishment of a high crime will follow your acts. Is it a crime in you today to receive the money? No. Does the act of receiving it involve any degree of moral turpitude? No. There is today no fraud, no offense, no crime in receiving the money; tomorrow there will be. How? Why, sir, the fundamental law of the land has made a crime, a high crime, of an act in which there is no crime, no immorality. An act of honest, open-handed deal and traffic between man and man is made a crime by law where not even the shadow of deception or turpitude is involved. You punish here an act as a crime which is not criminal, and throw heavy chains upon the business and confidence of the community. And all this is called progressive democracy. The brightest jewel is yet to be exhibited from the casket. The government of the United States has issued under legal sanction treasury notes of fifty dollars and upward "intended to circulate as money" and receivable for government dues. That man who pays, gives or receives in payment any of these treasury notes shall be fined and imprisoned as above stated. The man who buys land at the land office where they are a good tender by law and the receiver an officer of government who receives it in payment for land shall both be punished by fine and imprisonment. The stranger that lands upon the shores of Lake Michigan at Milwaukee, Racine, or Southport and pays a one-dollar bank note of an eastern bank for his landlord's bill, perfectly ignorant of the enormous crime he is committing, is liable to be arrested, fined, and imprisoned. I have always understood that the punishment should be measured by the aggravation of the offense committed. This is an age of progression, however, and the proposition is discovered to be a great fundamental error.

Sir, this is bantering with that vulgar stuff called common sense too much. This report and all these amendments are unconstitutional. First, because the Constitution of the United States provides that "no unusual or unjust punishment shall be inflicted." Second, because if the general government has a constitutional right to issue treasury notes intended to cir-

culate as money, the same being representatives of value, we have no constitutional right, even in our sovereign capacity, to make a law which prevents them from circulating from hand, or which will punish any man for "paying or giving or receiving the same in payment"—much less make it an offense punishable by fine and imprisonment. Third, because even in our sovereign capacity we cannot make a crime of an act in which there is no fraud, and in which no degree of moral turpitude is involved. And fourth, because it would be a law abridging our fundamental rights as freemen, and striking out the very foundation of our democratic republican system of government. Strange, is it not, sir, how wisdom like old age creeps upon us unawares. The Constitution of the United States nowhere creates a crime for the commission of which the people are to be punished; and in one solitary instance only does it even define in what a specific crime consists. In none of the state constitutions is any similar provision found, or one which in the most remote degree will bear a comparison. Yet, with all, we are told with grave and angry words that the support of these propositions was to be the test of the democracy of members in this convention. Where did this new light come from? Where this new system of democracy, which is to rend the Democratic party? By what authority do gentlemen on this floor draw new lines and set new boundaries to our action? Can gentlemen make democracy? And if so, is this a specimen of their very domestic manufacture? There is no such thing as a democratic principle which runs counter to the necessities and best interests of the people, which cripples men in the exercise of any honest and honorable vocation or employment. There is no democracy, no good principle, no settled honesty of purpose in the propositions that have been made here upon this bank question.

The gentleman from Dane (J. Y. Smith) yesterday gave us a long and interesting dissertation upon money and money matters, exchange, etc. Sir, I am not familiar with banks or with their systems of operation, nor am I acquainted with the system of exchanges. But I have yet to learn where the value of the dollar comes from according to his system, and to learn

the bearings of his trite notions to be of beneficial tendency. I want to know why a one-dollar note or a five-dollar note on a given bank is not good or safe when a ten- or twenty-dollar note on the same bank is good or safe. Money itself, according to some, is but the measure of value. What seals this measure of value but the law? What makes it stable and uniform but the law? What makes a given amount of silver worth, in common parlance, one dollar, or a given amount of gold worth five? What makes it measure five dollars' worth of wheat? Is it the weight of gold or silver when compared with other metals that fixes this measure of value? Is it the color of gold or silver alone that stamps its value? No. Is it the weight alone? No. In the first case you might color any other metal to compare with them, and in the other sixteen ounces of lead is just as heavy as sixteen ounces of gold. One says it is the fineness of the metal that makes its nominal value, or, if you please, its real value. Iron may be just as fine for iron as gold is for gold. The fineness or purity of a given thing can only be spoken of in a relative point of view, although what we call the value of gold or silver may, in a greater or less degree, arise from several causes and attributes. Yet the true, strict value of the coin or money is a legal value fastened upon it from necessity and convenience. And what our government makes money by law, making it receivable for government dues, and giving its faith and credit for its validity, if a fifty-dollar treasury note is just as good and will buy just as much wheat and as many necessaries as fifty dollars in gold. The course of the government and the general laws of trade will stamp the value of your money, as that measures the value of all that is bought and sold; and trade will seek such channels and be conducted in such manner and with such currency as the necessities and interests of the community make either convenient or expedient. The idea that you can prevent the circulation of bank notes or treasury notes in this territory by legal enactment so long as they are a currency in any other state in this confederacy is perfectly preposterous. Commerce and business of every description will seek their own level, their own channels, and their own facilities, and, so long as no

fraud is perpetrated, no moral turpitude involved—so long as man deals with man, mutually understanding what they give and what they receive—so long you step out of the pale of your authority in attempting to confine or restrain them. You may legislate forever in the formation of a constitution containing such provisions as these proposed bank provisions, and your legislation will be utterly void. Your laws will have no strength—they can never be enforced. They are unnecessary, unreasonable, cruel, unconstitutional, inhuman. The moral sense of the community will revolt at their execution. They will remain, forever, perfect burlesques upon constitutional enactments.

Gentlemen talk here of the theory of these propositions being right, but doubt their practical effects. Sir, I have no doubts. They may talk to me until they are gray about a theory being good and its practical tendency bad. There is no such thing. The value of any given theory depends solely upon its beneficial and practical effects. The theory of no thing is good unless that thing is good in practice. If a given thing is good in theory it is good in practice, and so vice versa. Away then with this attempted hairsplitting in efforts to dodge your duty and your responsibility to the people. They talk to us, too, with all these other absurd propositions about difference between the right and expediency of any given course of action. There is nothing, sir, that it is right for a man, a state, or a nation to do that it is not expedient for them to do. Nor is there anything expedient in an individual, state, or national point of view that is not right to be done. A thing is always right when it is expedient, and always expedient when it is right. There is no virtue in this convention unless it can shake off this great time-serving load that weighs down upon and paralyzes its labors and usefulness. Let us be bold and honest in the discharge of our duty here. Let us look to the wants, the interests, the rights of this state, and labor for the maintenance of those rights, the protection of those interests, thinking less of our own political prospects and more of our representative and conventional duties. Let us do only what we were sent here to do on this subject—restrain the legisla-

ture from granting special bank charters and privileges, leaving the rest to the legislature subject to directions of the people. And I tell gentlemen from Racine they must come to this at last. The public will compels or will compel it. And, sir, I envy not the situation of gentlemen from Racine in the relations which they will bear to their constituents on their return from this convention, provided their report or any of these amendments are adopted. Not only do I believe they will suffer in reputation, but I should be much surprised if they did not suffer in their own proper persons. Sir, this must not become a law. We must not have such articles in the constitution of our state. An indignant people affected in their interests will cry out against it. And I tell gentlemen here that before three weeks pass over their heads, if they sanction the passage of these articles, they will hear condemnation rolling over their heads in startling tones from the whole eastern portion of the territory. It will be found better to stop now, to stop at once, than to go on and on with this progressive system, and then, when we find the strong tide of public opinion, of the public will, set against us, be forced with shame to retrace our steps. Sir, I wish only to do my duty. I am content to let the end be what it may.—*Democrat,* Nov. 21, 1846.

FRIDAY, OCTOBER 16, 1846

Prayer [by] the Rev. Mr. Miner.

The journal of yesterday was read and corrected.

Mr. Dennis moved that leave of absence be granted to Mr. Turner. Leave was granted.

Mr. Burchard asked leave of absence for Barnes Babcock. Leave was granted.

Mr. Baker asked leave of absence for N. F. Hyer. Leave was granted.

Mr. Whiteside asked leave of absence for Mr. Elmore. Leave was granted.

Hiram Brown asked leave of absence for Mr. Bowen. Leave was granted.

Marshall M. Strong offered the following resolutions, which were read, to wit: "*Resolved,* That there shall be a standing committee on engrossment, consisting of five members, to be appointed by the president."

"*Resolved,* That the committee on revision be authorized and instructed to report to the convention all such verbal amendments to such articles as shall have passed the third reading as they shall deem expedient, not changing in any manner the substance of such articles."

Moses M. Strong moved that all rules which prevent the consideration of said resolution now be suspended, which was decided in the affirmative. And a division having been called for, there were 58 in the affirmative and 2 in the negative. The said resolution was then taken up and adopted.

The President announced the following committee under said resolution, to wit: Messrs. Marshall M. Strong, Hunkins, White, Hammond, and Phelps.

The resolution calling upon the several clerks of the supreme court and of the district courts [of the] counties of Dane, Milwaukee, and Racine, and the registers in chancery in said counties for certain information was then taken up, when Mr. Goodell asked and obtained leave to withdraw the same.

The resolution relative to appointing a select committee, to whom shall be referred all the expenses of this convention, was then taken up and adopted.

The President announced the following committee under said resolution, to wit: Messrs. Dennis, Bennett, Wilson, Dunning, and Warren Chase.

The resolution relative to the extensive [extension of the] elective franchise to [of] the colored population was then taken up, when Mr. George Hyer asked and obtained leave to withdraw the same.

The resolution relative to a new apportionment of the members of the legislature was then taken up and adopted.

The resolution of Mr. Huebschmann relative to appointing a select committee in relation to the question of giving the right of suffrage to the colored population was taken up, when Mr. Huebschmann asked and obtained leave to withdraw the same.

The resolution relative to appointing a committee to report ways and means relative to the postage of the members of this convention was then taken up. And the question having been put on the adoption of said resolution, it was decided in the negative. And a division having been called for, there were 26 in the affirmative, negative not counted.

The resolution relative to admission to practice in all courts in this state was then taken up, when Asa Kinne moved that said resolution be referred to the committee on [the] judiciary, which was agreed to.

The morning hour having expired, the unfinished business of yesterday was taken up, when Mr. Kellogg moved to amend the report of the committee of the whole by adding the following to section 2, to wit: "Provided, should any future legislature see proper to provide by law for a general or private banking system, they shall have power to do so; but no bank or other institution having banking privileges shall have power to issue any bills or other evidences of debt whatsoever to circulate as money under a less denomination than $50, or shall go into operation until its charter shall have been submitted to the electors of this state at least three months previous to a general election, by publication, as the said legislature may direct, and have been adopted by a majority of the legal voters of the state; and said legislature shall also have power to provide by law for the supervision of such bank or banks, or repeal of any such charters, anything in the provisions of this constitution to the contrary notwithstanding."

George B. Smith read an amendment which he proposed to offer at a suitable time. He argued at some length in favor of Mr. Kellogg's amendment.

Messrs. Beall, Kellogg, Burnett, and Strong continued discussing the question.

General John Crawford: Mr. President—I am surprised to see the course taken here by gentlemen! The wind changes too often! Some gentlemen will stand up here one day and declare in favor of pains and penalties and call me a "soft" in politics because I am not with them, and the next day come out in favor of banks. Such a course I deprecate in politics or anywhere else. I call myself a straightforward Democrat of the old school, and let any man here dispute it. I am opposed to all pains and penalties being inserted in our constitution, leaving that to future legislation; and I am opposed to banks or banking in any shape whatever, now and forever, in this

state, in any way they can contrive. In answer to a remark that has been made upon this floor by a gentleman from Waukesha, that the Democrats were the bank party, or had been, in the general government, in a great measure, I acknowledge the corn, but they have seen the evils growing out of that system, have repented, and determined to mend their ways. The Federalists, Amalgamationists, Clay men, Anti-Masons, or self-styled Whig party, or whatever name they may assume to themselves, should not be implicated altogether as a bank party in the general government heretofore. For, sir, they have never been in power since about 1800 until 1840, and then, by interference of divine Providence, they were deprived of the venerable gentlemen they had placed in the presidential chair; and then what did they do? Why, sir, because John Tyler would not give them a bank, they denied their own offspring! They would not own their own bantling—they called him a Democrat because he was antibank; so much for that. The result was they got into difficulty amongst themselves; they could not agree—they sent one of their offsprings here to govern us, and they got to quarreling about that, and at the end were like the Kilkenny cats that devoured one another until there was nothing left but one's tail; but they have revived up, and I see two of them here now from Waukesha.

The question was taken on the amendment of Mr. Kellogg and resulted ayes 15, noes 90.—*Express,* Oct. 20, 1846.

And the question having been put on the adoption of said amendment, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 15, negative 90; for the vote see Appendix I, roll call 11].

Mr. Ryan moved further to amend the report of the committee of the whole by adding the three following additional section[s], to wit:

"Section 7. No person or persons, corporation, or institution whatever, shall, under any pretence or authority whatever, make, sign, or issue within this state any paper money, or any bank note, promissory note, bill, order, check, certificate of deposit, or other evidence of debt whatever, intended to circulate as money.

"[Section] 8. No corporation within this state shall, under any pretence or authority whatever, exercise the business of receiving deposits of money, making discounts, or buying or selling bills of exchange, or do any other banking business whatever.

"[Section] 9. No branch or agency of any bank or banking corporation or institution of the United States, or of any person or per-

sons doing banking business without this state, shall be established or maintained within this state."

Horace Chase called for a division of the question. And the question having been put on the adoption of section 7 of said amendment, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 60, negative 42; for the vote see Appendix I, roll call 12].

And the question having been put on the adoption of section 8 of said amendment, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 63, negative 40; for the vote see Appendix I, roll call 13].

And the question having been put on the adoption of section 9 of said amendment, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 77, negative 26; for the vote see Appendix I, roll call 14].

Moses M. Strong moved to adjourn to two o'clock, P. M., which was agreed to.

TWO O'CLOCK, P. M.

A communication was received from the treasurer of the territory of Wisconsin in compliance with a resolution heretofore adopted, relative to funds in his hands, which was read, to wit:

TREASURER'S OFFICE,
MADISON, Oct. 19, 1846.

To the Hon. D. A. J. Upham,

SIR: I have the honor to acknowledge the receipt of a copy of a resolution passed by a convention over which you have the honor to preside, appropriating and ordering me to pay over to yourself the sum of $897.16, being the balance remaining in my hands arising from the sale of canal lands.

The money arising from said sale has been by me deposited with Alexander Mitchell, Esq., of Milwaukee, for safe keeping (the legislature having in their prudent economy never furnished the treasurer with an office, or even a safe, for the convenient transaction of business). I have therefore deemed it prudent and safe to entrust the territorial funds in the hands of such men as have heretofore been made depositories of the moneys of the United States.

As soon as the money can be transmitted from Milwaukee to this place the appropriation to yourself by the convention, of $897.16, will be promptly paid.

I have the honor further to state that all money hereafter coming into my hands from the canal funds will be subject to the further pleasure of the convention.

All of which is most respectfully submitted.

J. LARKIN JR., Treasurer W. T.

The amendment of [Mr.] Beall, offered yesterday to the report of the committee of the whole on banks and banking, was then taken up. And the question having been put thereon, it was decided in the nega-

tive. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 26, negative 76; for the vote see Appendix I, roll call 15].

J. Y. Smith offered an amendment (which we have not now at hand) the purport of which was to render null and void all payments made in paper money. He supported his amendment at some length.

Mr. Judd said he hoped the proposition of the gentleman from Dane would not be seriously entertained by the convention. It was the first time he had ever seen, read, or heard of such a monstrous proposition. It was nothing more nor less than to propose, when a man was naturally honest, to make him dishonest by constitutional provision.

Messrs. Randall, Burnett, Parks, Bevans entered into the discussion.

Mr. Smith withdrew his amendment.

Mr. Beall's substitute was then proposed.

Mr. Steele advocated it at some length.

The question was then put, the yeas and noes being called, and the substitute rejected, as follows: [affirmative 26, negative 76].—*Democrat,* Oct. 24, 1846.

[Remarks of Mr. Steele in advocacy of Mr. Beall's substitute.]

Mr. President: It may be well, as it seems the prevailing fashion of the day, for me to preface the few remarks which I propose to make upon this question with a statement of my political faith, and that gentlemen in their hostility to banks are not more so than I am, and that if in their advocacy of the proposition as introduced by the gentleman from Walworth (Mr. Baker) they are "hard," I claim to be harder—that if the advocacy of a proposition to exclude all good paper money as a circulating medium, at the same time allowing the free circulation of such shinplasters as we now are flooded with arising within our limits, as does this bill—I say—if such a position constitutes a "hard" I am not one of them. I advocate the exclusion of bad money, and not good; and although it has been said that my constituents are in favor of this proposition, and

worse, that they are in favor of that extraordinary bantling emanating from the bank committee, yet am I opposed to it in toto, in my own judgment, and am ready to meet that issue before my constituents, believing that in the position I but represent their wills.

In stating my political belief, it may be well to state where I stand. I am in favor, decidedly in favor, of the proposition of the gentleman from Marquette (Mr. Beall) as a substitute for all and every of the propositions that I have yet heard introduced. By the provisions of the bill reported by the committee, as it now stands, it prohibits all banking of every kind and description. That the people are in favor of such a prohibition, I deny. By the term "banking" we do not merely mean banks of issue, but banks of issue, discount, and deposit. Banks proper are merely banks of discount and banks of deposit. There is a special banking power, however, which authorizes the issuance of the promises to pay of the institution, but such banks are the creation of special legislation. These I would restrict and make subject to the will of the people or, in the terms of the substitute, prohibit them entirely until the people, and the whole people, by their voice, should say they wanted them and would have them. I am opposed to enacting a prohibition for all time to come against general banking powers, if the people should wish such institutions under such proper restrictions as they may see fit to impose. If the question should now be left to the people whether or not they would enact a law authorizing banks of issue, I would oppose it to the utmost at the ballot box at the same time that I would vote here to allow it to go to the people, believing that such propositions should go directly to them. The people are the source of power and are to be trusted, and I deem it right and proper in all these matters of a general nature that they should be referred direct to them for their sanction or rejection, disconnected with collateral issues. Fix it so that the issue will be direct and there is no fear of the judgment.

It has been contended on this floor that there may be great excitements created which would pass an act which, in its effect, would be detrimental. But I would ask, May not some

of the members of the convention be now laboring under as great a prejudice from having been burned in the bank fire, and other influences which have thrown around them? Again, I venture to say, that this antibank excitement has originated here, and that many members of this convention who are now ready and willing to swallow anything rather than be called a "soft" came from their constituents with a more rational intention, and I would warn such members against such rash proceeding. Let them remember that they are to return to that same constituency and render them an account of their stewardship; and not only that, but that the document which they create here has to be sanctioned by that same constituency before it becomes operative. But, sir, when it comes to that test, if this bill passes in the shape it now assumes, it will meet with a decided veto, and then, sir, the effect of our rashness will be visible. To protect our natural right another expense of forty or fifty thousand dollars will have to be incurred —another convention called. Sir, it has been urged with a great degree of candor that the legislature are not to be trusted even with the veto power vested in the people, the sovereign people; but, sir, if the whole people cannot be trusted to govern themselves, can one hundred and twenty-five or less of that same body be trusted to govern them? Or, if they cannot be trusted, by what right or authority are we here? No other than the mouthpieces of that people, I contend that we are to express their wishes, not our own, and it is for that purpose we are sent here, and I do not believe that they have authorized us to say that they are untrustworthy.

But to return to the question: Are the people ready to abolish all banks of discount? And to arrive at a proper answer to that question we will have to consider the functions of a bank of discount, which are no more nor less than cashing notes, bills of exchange, certificates of deposit, or other evidences of debt, with gold and silver or the recognized currency of the country, and without the authority of special legislation the issue of their own notes would not be thought of, nor could such a business be carried on.

Then, sir, if that be their only and legitimate business, which no one can deny, I would ask again, Are we ready to adopt a proposition entirely prohibiting such a legitimate transaction? I answer, No! It is a natural right which should not and cannot be restrained without the united and unanimous consent of every member of the community.

Again, are the people ready to be deprived of a bank of deposit where they can deposit their surplus funds for safe keeping until they may want them, or where they can invest them at a stated interest subject to their call at any time? I answer again, No! It cannot be denied but that this excitement against banks is limited to the banks of issue, and them only. That, in speaking of banks in the general acceptation of the term, we refer to them and to them only, for it is with them mainly that the community are brought in contact. That the feeling against them in this community is just, I cannot deny, for we have suffered severely from them. But the fault is no more in them than in the persons who have been returned to the legislative halls to represent us; it is with them that the fault commences. They have personal interests to subserve—a bank of their own to create, in which they are to make largely out of the unsuspecting community; and then follows as a natural consequence loose legislation.

But, sir, take the veto power from the executive and vest it in our sovereigns, the people, and the fault is remedied. No special banking privileges will be passed, or, if passed, they will be so restricted that no harm will grow out of them. But, sir, what is the effect of the bill as reported by the committee as it now stands? The effect is, sir, to prevent all new banks under whatever restrictions or of whatever kind and also to prevent the free circulation of good eastern paper money, which everyone knows to be equal to gold and silver, while at the same time it does not restrain the circulation of the present issues of the Milwaukee Insurance Company, amounting to over five hundred thousand dollars, nor the amount which they may put in circulation between this and the time when our constitution will go into operation. There is not a clause in it which even squints that way. Gentlemen have said, and it originated

with the advocates of this report, that there was an east wind blowing upon this body—a Milwaukee influence felt here—and would fain make the community believe that the opponents of this proposition had sold themselves to that influence. That there had been such an influence brought to bear here, I did not know until so informed on this floor and by those who by their vote and speeches sustain this report, but I am bound to believe them. Their own words state it and their own acts prove it. Sir, with these views I shall cast my vote for the substitute and against the report.—*Sentinel and Gazette,* Nov. 23, 1846.

Mr. Tweedy moved to amend the report of the committee of the whole by striking out all after the word "article" and inserting the following:

"Section 1. The legislature shall have no power to pass an act granting special charters for banking purposes, but associations may be formed for such purposes under general laws.

"Section 2. Every such law before it takes effect shall, after it has passed through the usual forms of legislation, on the final passage of which the votes shall be taken by ayes and noes, which shall be recorded, be published in ——— weekly newspapers printed in different sections of the state for thirteen weeks successively, next preceding the next general election, and shall then be submitted to a vote of the electors at such election and shall be approved by a majority of the votes cast at such election, to be made to appear by a return and canvass of such votes made in the same manner as shall be provided for the return and canvass of votes cast at the general election of state officers by the people, and such law shall be subject to be altered or repealed in the same manner as the same shall have been enacted, and in no other manner whatever.

"Section 3. The stockholders in every corporation and joint stock association for banking purposes, issuing bank notes, or any kind of paper credits to circulate as money, shall be individually responsible to the amount of their respective shares of stock in any such corporation or association for all its debts and liabilities of every kind.

"Section 4. The legislature shall provide by law for the registry of all bills and notes issued or put in circulation as money and shall require ample security for the redemption of the same in specie.

"Section 5. In case of the insolvency of any bank or banking association the billholders thereof shall be entitled to preference in payment over all other creditors of such banking association.

"Section 6. The legislature shall limit the aggregate amount of bank notes to be issued by any association in this state which may be established."

Mr. Tweedy offered the following amendment, which he supported with some well-timed and telling remarks upon the anti-Democratic principles evinced and supported by the majority of the convention; their fears to trust the legislature and the people in all future time because there existed a possibility of the majority of the people becoming at some time favorable to the establishment of banks; thus arrogating to themselves more wisdom and experience than all the generations who may come after them by thus closing the door against their future action in this matter. Mr. Tweedy's amendment was * * *. —*Express,* Oct. 20, 1846.

Mr. Randall moved to lay the report of the committee and the amendments on the table, and that they be printed, which was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 33, negative 70; for the vote see Appendix I, roll call 16].

The question was then put on the adoption of the said amendment, and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 21, negative 80; for the vote see Appendix I, roll call 17].

Mr. Randall was opposed to hurrying a measure of so much importance through without mature deliberation and moved that the report of the committee with all the amendments be laid upon the table and printed in order that the members could have it all before them and vote understandingly upon the measure.

Mr. Parks was in favor of having the whole matter before the members in such a form that they could more closely inspect and reflect upon it; he should vote for printing them.

The question on laying on the table resulted in ayes, 33, noes 71.—*Express,* Oct. 20, 1846.

Mr. Hicks moved to amend the report of the committee by inserting the following as a substitute therefor, to wit:

"Section —. The legislature shall have no power to confer in any manner or form upon any person or persons, corporation, or institution of any kind any banking power or privilege; nor any power or authority in any manner or form to make, sign, or issue within this state any paper money, bank note, bill, order, check, certificate of deposit, or any other evidence of debt intended to circulate as money.

"Section —. No person or persons, corporation, or institution, or any officer or agent of any corporation, or institution of any kind shall ever make, sign, issue, pay, give or receive in payment, any paper money, bank note, promissory note, certificate of deposit, or other evidence of debt intended to circulate as money, which shall purport to have been issued either within or out of this state. The legislature shall, at its first session after the adoption of this constitution, provide adequate penalties by fine and imprisonment for carrying into effect the provisions of this article."

Marshall M. Strong demanded the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 79, negative 24; for the vote see Appendix I, roll call 18].

The Chair stated the question to be on the adoption of the report of the committee of the whole as amended. Mr. Magone appealed from the decision of the Chair. And the question having been put, "Shall the decision of the Chair stand as the judgment of the convention?" it was decided in the affirmative.

The question was then put on the adoption of the report of the committee of the whole, as amended, and it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 76, negative 27; for the vote see Appendix I, roll call 19].

Mr. Judd moved that said report be referred to a committee consisting of Messrs. Ryan, Gibson, Phelps, Sewall Smith, and Soper, with instructions "to report the same back with the provisions contained in it in the simplest language they can adopt," which was decided in the affirmative.

On motion the convention adjourned.

SATURDAY, OCTOBER 17, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read and corrected.

George Hyer moved that leave of absence be granted to Mr. Rankin, which was agreed to.

Mr. Brace moved to admit Mr. Hays to a seat in this convention, a member from the county of La Pointe, which was agreed to.

Mr. Brace stated that Mr. Hays, member elect from La Pointe, was here but had not his credentials, that he was elected beyond doubt, and he moved that he be allowed his seat. It was agreed to.—*Democrat,* Oct. 24, 1846.

Mr. Noggle, from the standing committee on corporations other than banking and municipal, reported No. 7, "Article on corporations other than banking and municipal."

"The committee on corporations other than banking and municipal have had under consideration the subject referred to them and have the honor to report and recommend the adoption of the following article on corporations other than banking and municipal.

"1. The legislature shall hereafter have power to create, renew, extend, or repeal any private corporation within this state.

"2. The stockholders of any private corporation hereafter created, renewed, extended, or repealed shall be jointly and severally liable as well in their individual as corporate capacity for all debts they may in any manner contract; and shall be subject to such other liability and restrictions as shall from time to time be provided by law.

"3. This state shall not directly or indirectly become a stockholder in any corporation whatever.

"4. Hereafter every act of incorporation enacted by the legislature shall embrace but one object or act of incorporation and that shall be expressed in the title.

"All of which is respectfully submitted.

DAVID NOGGLE, Chairman
NEELY GRAY
A. W. RANDALL
JULIUS KERN
S. P. HAMMOND"

The report of the committee was accepted and the committee discharged from the further consideration of the subject. The said report was then read the first and second times, referred to the committee of the whole, and ordered to be printed.

Mr. Ryan, from the committee to whom was referred article No. 1, relative to banks and banking, reported the same back to the convention, which report was accepted.

Mr. Tweedy moved that said report together with the original referred to said committee be printed and made the special order of the day for Monday next, which was agreed to.

Mr. Dennis introduced the following preamble and resolution which was read, to wit:

"WHEREAS the legislative assembly of this territory did by a resolution entitled 'Joint resolution in relation to canal funds,' approved February 3, 1846, direct the receiver of the canal lands to pay over to the treasurer of the territory all moneys arising from any sale of the canal lands, except the sum required to defray the expenses of the sale, and WHEREAS said resolution appropriated so much of the money so received as should be necessary to the payment of the expenses of holding this convention, to be paid out in such manner as the convention should provide, and WHEREAS the said treasurer has reported to this convention that he has now in his hands the sum of $897.16 of the moneys thus appropriated, now therefore be it, *Resolved,* That the said treasurer be and he is hereby directed to pay over to the President of this convention the said sum of $897.16 to be applied towards the payment of the expenses of this convention, and the said treasurer is further directed and required forthwith to receive all moneys subject to his order arising from the sale of said lands, and to retain the same subject to the further order of this convention."

And on motion, the rule having been first suspended for that purpose, said preamble and resolution were then taken up and adopted.

Mr. Burnett introduced the following resolution, which was read, to wit: "*Resolved,* That the superintendent of territorial property be and he is hereby directed to let down the upper sash of the windows of the hall of the convention sufficiently low for a proper and healthful ventilation of the room."

Marshall M. Strong moved to amend said resolution by inserting the following as a substitute therefor, which amendment was accepted by Mr. Burnett as a substitute for his resolution, to wit: "*Resolved,* That the superintendent of territorial property be requested to change the construction of the windows of the hall of the convention in such manner that the same may be opened at the top; and that the sergeant at arms of this convention be instructed to keep all the windows of said hall open both at the upper and lower part for one hour each day, from seven o'clock A. M., and for one half-hour at noon immediately upon the adjournment of the convention at noon, and for one half-hour immediately upon the adjournment of the convention in the afternoon session."

The said resolution was then adopted.

Mr. Willard introduced the following resolution, which was read, to wit: "*Resolved,* That this convention enact a clause in the constitution prohibiting the collection by law of all debts of less denomination than $50, and abolishing the justices' courts."

The business first in order, being article No. 2, "Article on suffrage and the elective franchise," was then taken up. Mr. Magone moved that the said article be postponed and made the special order of the day for Wednesday next. And pending the question on said motion, on motion of James H. Hall, the convention adjourned.

MONDAY, OCTOBER 19, 1846

Prayer by the Rev. Mr. Lord.

The journal of Saturday was read and corrected.

Mr. Noggle presented the credentials of John Hackett of the county of Rock. Mr. Burnett presented those of Daniel R. Burt of the county of Grant, and Mr. Lovell those of Mr. Cartter of the county of Racine, as members of this convention, who were severally admitted to their seats.

Mr. Burchard, from the minority of the committee on suffrage and the elective franchise, reported No. 2, "Article on election and suffrage."

"The minority of the committee on suffrage and elective franchise respectfully reports to this convention and recommends to be adopted into this constitution of this state the following article:

"Section 1. Every male person of the age of twenty-one years or upwards who shall be a citizen of the United States or who shall have filed an oath to support the Constitution of the United States in the clerk's office of a district court shall be entitled to vote at any general election for all officers created by this constitution or established by the legislature under this constitution to be elected by the electors of this state: *Provided*, That he shall have been a resident of this state for six months, and of the county for one month previous to such election.

"Section 2. All votes shall be given by ballot, and under such regulations as the legislature shall establish.

"Section 3. On the day of such general election all electors shall be exempted from any public duty, except in time of public danger, and privileged from arrest during attendance at, and going to and from such election, except for breach of peace, felony, or treason.

"Section 4. No person shall be deemed to have lost his residence by reason of absence on business of the United States or of this state.

"Section 5. No soldier, seaman, or mariner in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed in any military or naval place within the same.

CHARLES BURCHARD."

The report of the committee was accepted. Said article was then read the first and second times and referred to the committee of the whole and ordered printed.

Mr. Lovell, from the committee on amendments to the constitution, reported No. 8, "Article on amendments and revision."

"The committee to whom was referred the subject of amendments to the constitution have had the same under consideration and recommend the adoption of the following article on amendments and revision:

"1. Any amendment or amendments to this constitution may be proposed in either house of the legislature; and if the same shall be agreed to by two-thirds of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon; and shall be published for three months previous to the next annual election; and it shall be the duty of the legislature to submit such amendment or amendments to the people at the next annual election; and if the people shall approve and ratify such amendment or amendments by a majority of the qualified electors voting thereon, such amendment or amendments shall become a part of the constitution. *Provided,* That if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against each amendment separately and distinctly.

"2. Every tenth year after this constitution shall have taken effect, it shall be the duty of the legislature to submit to the people at the next annual election the question whether they are in favor of calling a convention to revise the constitution or not; and if a majority of the qualified electors voting thereon shall have voted in favor of a convention, the legislature shall at its next session provide by law for holding a convention, to be holden within six months thereafter. And such convention shall consist of a number of members not less than that of the house of representatives, nor more than that of both houses of the legislature.

"All of which is respectfully submitted.

F. S. Lovell, Chairman"

The report of the committee was accepted. Said article was then read the first and second times, referred to the committee of the whole, and ordered to be printed.

Marshall M. Strong introduced the following resolution: "*Resolved,* That the sixth standing rule of the convention be rescinded, and that the following rule be substituted in its stead, to wit: The previous question shall be in this form: 'Shall the main question be now put?' It shall only be admitted when demanded by a majority of the members present, and its effect shall be to put an end to all debate and bring the convention to a direct vote upon amendments reported by a committee, if any, upon pending amendments, and then upon the main question. On a motion for the previous question and prior to the seconding of the same a call of the convention shall be in order, but after a majority shall have seconded such motion no call shall be in order prior to a decision of the main question. On a previous question there shall be no debate. All incidental questions of order, after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate."

The following resolution was then taken up and adopted, viz., "*Resolved,* That the committee upon miscellaneous provisions not em-

braced in subjects committed to other committees be instructed to consider and report whether or not it is expedient to incorporate a clause in the constitution exempting real estate from sale upon execution, and also whether or not a clause be incorporated providing for the better protection of the rights of married women in their property, and, if in their opinion the incorporation of such clause be expedient, that they be directed to report proper article[s] for that purpose."

The following resolution was then taken up and adopted, viz; "*Resolved,* That 150 copies of the late act of Congress providing for the admission of Wisconsin into the Union be printed for the use of the members of this convention."

The following resolution was then taken up and on motion of Mr. Parkinson was referred to the committee on taxation and the public debt, viz., "*Resolved,* That the legislature shall have no power to pass any law authorizing the granting of license for the sale of spirituous liquors in this state."

The following resolution, introduced by Mr. Willard, was then taken up, and on his motion was referred to the select committee on the collection of debts, viz., "*Resolved,* That this convention enact a clause in the constitution, prohibiting the collection by law of all debts of less denomination than fifty dollars, and abolishing the justices court."

The following resolution was then taken up, to wit: "*Resolved,* That there shall be paid to the printers at Madison who furnish newspapers to the members of this convention under the resolution adopted by the convention six cents apiece for such papers and for reporting and publishing therein the proceedings of this convention."

Moses M. Strong moved to amend said resolution by striking out the word "six" and inserting the word "eight." And the question having been put, it was decided in the negative. And a division having been called for, there were ayes 15, noes not counted. The said resolution was then adopted.

Mr. Fuller introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on miscellaneous provisions be instructed to inquire into the expediency of providing in the constitution an article forbidding the existence of any lottery, or the vending of any lottery tickets within this state, and also that they be instructed to inquire into the propriety of adopting an article in the constitution prohibiting [any] license from being granted for the sale of spirituous liquor, or for the exhibition of any jugglers, mountebanks, or wire dancers in this state."

Mr. Phelps introduced the following resolution, which was read, to wit: "WHEREAS, the Treasurer of the territory reports that he has paid out of the moneys received from the canal fund the sum of $10,338.99, for territorial bonds, script [scrip], auditors' warrants, and other territorial indebtedness, therefore be it *Resolved,* That a committee of five be appointed by the president to examine the aforesaid bonds, script [scrip], warrants, and other indebtedness, and report to this convention the amount in territorial bonds, script [scrip], auditors' warrants and other territorial indebtedness, severally."

On motion of Mr. Phelps the rule requiring resolutions to lie upon the table one day before being acted upon by the convention was suspended in relation to the aforesaid resolution, which was then taken up and adopted.

The President announced the appointment of the following committee under said resolution, to wit:

Messrs. Noah Phelps, William M. Dennis, John Y. Smith, Warren Chase, and Coxe.

Mr. Dennis inquired of the Chair in regard to his success under the resolution authorizing him to request the Treasurer to pay over the balance in his hands for the use of this convention.

The Chair stated that the Treasurer had expressed himself unwilling to give a definite answer on the subject at the time, but would take legal advice, and do so this morning.

John Y. Smith was in favor of appointing the committee, and therefore hoped the resolution would pass. He had thought for several months that there was something wrong in the management of this fund. Having some demands on the fund, and hearing that the Treasurer had received funds from the sale of these lands, which he was paying out to certain individuals, he called on him to demand payment, when he equivocated in various ways, but at last acknowledged that he had appointed his brother an agent, and he had no doubt "Charley" was doing what was right about it, although he did not know exactly how the funds in his hands had been applied. He would not presume to say the Treasurer was speculating with this fund by buying up territorial paper, but was convinced there was something wrong about it, and thought the convention should find out where the mismanagement was.

The resolution was adopted, and Messrs. Phelps, Dennis, J. Y. Smith, and Coxe appointed a committee to carry it into effect.

Mr. Dennis then introduced a resolution requesting the Governor of the territory to remove the present Treasurer, he having proved himself unworthy of the confidence of this convention and of the people, which was subsequently withdrawn.

The remainder of the day was spent in "tinkering" the report of the committee on banks and banking, and which re-

sulted in its adoption as amended by the vote which we gave in our postscript last week and its engrossment for a third reading.—*Express,* Oct. 27, 1846.

The regular order of business, it being No. 1, "Article on banks and banking," was taken up, when Mr. Hunkins moved to amend the sixth section thereof as reported by the committee by striking out the following words: "or of any denomination less than fifty dollars after the year 1849." And the question having been taken, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative [45], negative 60; for the vote see Appendix I, roll call 20].

Warren Chase moved to amend by striking out the word "fifty" and inserting the word "twenty" in the sixth section of said article. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 60, negative 45; for the vote see Appendix I, roll call 21].

Mr. Moses M. Strong moved to amend said section by adding the words, "after the year 1851, of any denomination less than fifty dollars." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 52, negative 55; for the vote see Appendix I, roll call 22].

Mr. Marshall M. Strong moved to amend by striking out all after the word "states" where it last occurs in the second line of the fifth section to the word "shall" in the third line of the same section. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 86, negative 18; for the vote see Appendix I, roll call 23].

Mr. Strong of Racine moved to strike out "or of any person or persons doing banking business without this state." A long discussion here arose, the minority charging the majority of "crawfishing" on the question of private banking, the majority denying that they had opposed private individuals doing business of receiving deposits, buying bills of exchange, and of discounting. The power to issue was all they wished to take from the individual.

Messrs. Strong of Racine, Burchard, W. R. Smith, Strong of Iowa, Ryan, Barber, Tweedy, H. Chase, G. B. Smith, and Randall participated in the debate.

The vote was taken by ayes and noes and the amendment was

agreed to as follows: ayes 86, noes 18.—*Democrat,* Oct. 24, 1846.

Mr. Moses M. Strong moved to strike out the words "after the year 1847" where they occur and insert the same words after the words "within this state" in the first line. And also to strike out the words "after the year 1849" where they occur and insert the same words after the word "or." And the question having been put, it was decided in the affirmative.

Mr. Kellogg moved that the convention adjourn, which was disagreed to. And a division having been called for, there were ayes 47, noes 49.

Mr. Hicks moved to amend by striking out all after the word "states" in the third line of the sixth section. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 27, negative 79; for the vote see Appendix I, roll call 24].

The President laid before the convention a report of the Treasurer of the territory, in answer to a resolution passed on Saturday last, which was read, to wit:

TREASURER'S OFFICE,
MADISON, Oct. 19, 1846.

To the Hon. D. A. J. Upham

SIR: I have the honor to acknowledge the receipt of a copy of a resolution passed by the convention over which you have the honor to preside, appropriating, and ordering me to pay over to yourself the sum of $897.16, being the balance remaining in my hands arising from the sale of canal lands.

The money arising from said sale has been by me deposited with Alexander Mitchell Esq., of Milwaukee, for safe keeping (the legislature having in their prudent economy never furnished the treasurer with an office, or even a safe, for the convenient transaction of business). I have therefore deemed it prudent and safe to entrust the territorial fund in the hands of such men as have heretofore been made depositories of the moneys of the United States.

As soon as the money can be transmitted from Milwaukee to this place the appropriation to yourself by the convention, of $897.16, will be promptly paid.

I have the honor further to state that all money hereafter coming into my hands from the canal funds will be subject to the further pleasure of the convention.

All of which is most respectfully submitted.

J. LARKIN JR., Treasurer W. T.

On motion of Asa Kinne the convention adjourned until two o'clock, P. M.

TWO O'CLOCK, P. M.

Marshall M. Strong moved to suspend the rules for the purpose of considering the resolution in relation to the sixth standing rule offered by him, which was agreed to. Said resolution was then taken up and adopted.

Mr. Burchard moved to amend No. 1, "Article on banks and bank-

ing,'' by striking out the sixth section thereof. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 30, negative 68; for the vote see Appendix I, roll call 25].

George B. Smith moved further to amend by adding the following section, to wit:

''Section 8. Whenever two-thirds of the members of the legislature of this state deem it necessary to amend or alter this article, they may recommend to the electors of this state the proposed amendment or alteration shall be distinctly and fully published in six weekly newspapers published in different sections of the state for six months immediately previous to any general election. And if a majority of the electors at said election shall vote to accept the proposed amendment or alteration, as shall be made to appear as [at] the proper office appropriated [appointed] by law to canvass the votes for members of Congress, then this article shall be so amended or altered, and such alteration or amendment shall be considered of as binding effect as any provision of this constitution.''

Moses M. Strong demanded the previous question, which was sustained. And the question having been put, ''Shall the main question be now put?'' it was decided in the affirmative.

The President decided that under the new rule adopted the previous question would be on the pending amendment. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 17, negative 84; for the vote see Appendix I, roll call 26].

The question then recurred on the adoption of the report of the committee as amended. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 79, negative 23; for the vote see Appendix I, roll call 27].

The question was then put on ordering the said article to be engrossed for its third reading and was decided in the affirmative.

Mr. Ryan introduced the following resolution, which was read, viz., ''*Resolved,* That the rules for the government of this convention as now adopted be referred to a select committee of five, with instructions to revise and arrange the same, and report the same to the convention.'' And on motion, the rule having been first suspended for that purpose, the said resolution was taken up and adopted.

The Chair announced the appointment of the following committee under said resolution, to wit: Moses M. Strong, Marshall M. Strong, Burnett, Baker, and Randall.

Mr. Randall, by leave, introduced the following resolution, which was read, viz., ''*Resolved,* That the Secretary of this convention be authorized to employ such assistants as may be necessary to do the business of the convention,'' when Mr. Dennis moved to amend the same as follows, by striking out all after the word ''resolved'' and in-

serting "that the convention do now proceed to elect by ballot a second assistant secretary of this convention." And the rule having been first suspended for that purpose, the question was then put on adopting the said amendment and was decided in the negative. The question then recurred on the adoption of the resolution. And having been put, it was decided in the affirmative.

Mr. Reed stated that he understood the Secretary was willing to withdraw his resignation if the convention would allow him sufficient assistance to accomplish the duties of his office.

Mr. Randall, by leave, offered the following resolution: "*Resolved,* That the Secretary of this convention be authorized to employ such assistants as may be necessary to do the business of the convention."

Mr. Dennis moved to amend so as to elect by ballot, which was rejected, and the original resolution adopted.—*Democrat,* Oct. 24, 1846.

Moses M. Strong moved that the convention resolve itself into committee of the whole for the consideration of No. 2, "Article on suffrage and the elective franchise." And pending the question on said motion, on motion of Mr. Hunkins the convention adjourned.

TUESDAY, OCTOBER 20, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read and corrected.

Mr. Hunkins, from the committee on engrossment, reported No. 1, "Article on banks and banking," as correctly engrossed.

Mr. Crawford, from the select committee to which had been referred the resolution to abolish all laws for the collection of debts, reported No. 9, "Article on the collection of debts."

"The committee to whom was referred the resolution to abolish all laws for the collection of debts, after taking the subject into consideration, beg leave to report the following article:

"Section 1. There shall be no law imposed within this state for the collection of any debts of a less amount than $100 contracted within this state after the adoption of this constitution.

"Section 2. The legislature shall have no power to enact any law for the collection of debts contracted within this state of a less amount than $100 after the adoption of this constitution.

JOHN CRAWFORD, Chairman"

The said report was accepted, the committee discharged, the article read the first and second times, referred to the committee of the whole, and ordered to be printed.

Mr. Goodell introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on miscellaneous provisions not embraced in the subjects committed to other committees be requested to introduce a provision to be incorporated in the constitution, forever prohibiting imprisonment for debt."

Moses M. Strong introduced the following resolution, which was read, to wit: "*Resolved,* That all debate in committee of the whole on the majority and minority reports (No. 2) on suffrage and elective franchise shall cease on Thursday morning the twenty-second of October instant, at eleven o'clock (if the committee shall not sooner come to a conclusion on the same) and the committee shall then proceed to vote on such amendments as may be pending, or offered to the same, and shall then report it to the convention with such amendments as may have been agreed to by the committee."

Warren Chase introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on expenses of this convention be instructed to ascertain and report the amount due the members of this convention for mileage to and from this place."

Mr. Cruson introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on education, schools, and school funds be instructed to inquire into the expediency of engrafting a provision in the constitution, making it imperative on the legislature to provide the necessary means, by taxation or otherwise, for placing a

common school education within the reach of all the children of the state."

Mr. James introduced the following resolution, which was read, to wit: "*Resolved,* That no person or persons shall ever be permitted to purchase or own any real estate within this state who are not capable of becoming citizens of the United States."

The resolution relative to granting licenses for the sale of spirituous liquors and exhibitions, introduced on yesterday, was taken up, and on motion of Mr. Fuller it was referred to the committee on miscellaneous provisions.

No. 1, "Article on banks and banking," was then taken up and read a third time, when Mr. Prentiss moved to [commit] the same to a select committee of five, with instructions to report the following article as a substitute, to wit:

"Section 1. The legislature shall not, for five years from and after the establishment of this constitution, be permitted to incorporate or authorize, in any manner or form, any bank or other institution having any banking power or privilege, or to confer upon any person or persons any special banking [power or] privilege. Nor shall the legislature at any time hereafter be permitted to incorporate or authorize in any manner or form any bank or institution having any banking power or privilege, or to confer upon any person or persons any special banking power or privilege, except by a vote of two-thirds of each branch of the legislature; and unless such person or persons, such bank or other institution, shall give good and sufficient security to the state, to be approved by the governor, for the ultimate discharge of all their liabilities, and unless the members of such bank or other institution shall be made liable individually for the debts of such bank or other institution. Nor shall any corporation or institution exercise any banking power whatever, unless authorized by the legislature as aforesaid."

And the question having been put, it was decided in the negative.

Pending the question on the passage of the said article Mr. Magone moved a call of the convention, which was ordered, and Messrs. Barnes Babcock, Chamberlain, Dunning, Fitzgerald, Hunkins, Jenkins, Judd, Mills, Phelps, Rankin, Rogan, Steele, Topping, Turner, Vineyard, Whiteside, and Wilson reported absent.

On motion, the following named gentlemen were excused from their attendance to wit: Messrs. Barnes, Babcock, Chamberlain, Dunning, Fitzgerald, Jenkins, Judd, Mills, Phelps, Steele, Topping, and Turner.

Marshall M. Strong moved that all further proceedings under the call be dispensed with, which was disagreed to. Moses M. Strong moved that all further proceedings under the call be dispensed with, two of the absentees having appeared in their seats. And the question having been put, it was decided in the negative. And a division having been called for, there were 27 in the affirmative and 53 in the negative. Mr. Magone moved that all further proceedings under the call be dispensed with, which was agreed to.

The question then recurred on the passage of No. 1, "Article on banks and banking." And having been put, it was decided in the af-

firmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 80, negative 24; for the vote see Appendix I, roll call 28].

So the article passed, and the title thereof was agreed to.

The article having been reported as correctly engrossed was read a third time when Mr. Prentiss said he had no desire to discuss the subject of banks and banking, but that his course might not be liable to misconception he wished to state briefly some of the reasons why he could not vote for the article as reported from the committee. Whenever it was his duty to act so as to affect materially the welfare of the country or any portion of it, he would pursue that course which he believed most conducive to that welfare, whatever might be the consequences individually to himself. If he could not please all his friends, he could only say it was as much a source of regret to him as it could be to them. The question was not whether there should be a bank but whether they would give the power to the legislature of authorizing banking in any form, at any future day, in any possible contingency that might occur, with proper guards and under proper restrictions. The great principle involved in this article, if fairly developed, would reduce the currency of the territory, which is now a mixed one, to one of a purely metallic character. The mere inhibition upon the legislature of authorizing banking in any form is but half the work. To carry out the principle they must expel from the currency of the state everything but hard money; and that in the present age he believed was utterly impossible. In viewing this question they should not act with reference to first principles merely—they should not look upon the thing in the abstract only, as if it were new and untried—but they should have regard to the circumstances in which they were placed and the relations which they bear to other states, and see how they would be affected by attempting to carry out the principle. If they were an isolated people, separated from all the rest of the civilized world, perhaps the principle as contained in the article might be well enough in practice; but as they now were, in their present condition, the principle he believed was utterly impracticable. If they were to inhibit every species of banking as a necessary consequence

they must prevent the influx of foreign issues. It is in vain to inhibit all banking, and yet permit the circulation here of bank notes of other states, over which banks they can exercise no control or regulating power, and of the character of whose notes they can know little or nothing. He would have no banking, under any circumstances, unless it could be done safely to the public and for their convenience. He was as unfriendly as anyone to irresponsible banking, and he was equally as unfriendly to any principle which, if carried out, would tend to impair or check the increasing prosperity of the country. This article forever prohibits the legislature from authorizing banking of any kind, under any restrictions. He was unwilling that the legislature should have no power, at any future time, when perhaps the circumstances and necessities of the people might require it, to permit banking, with proper guards and under proper restrictions. Nor was he willing that the present population of the territory, of 160,000, should bind half a million of people, to which the population of the territory would soon swell, upon a matter of at least doubtful policy. Besides, a constitution, in his apprehension, should consist of few, simple, and fundamental principles, and not of matters of questionable expediency or doubtful policy. Those should be left to the legislature properly restricted; and especially should they not insert into the constitution provisions which cannot be enforced.

Mr. Prentiss concluded by moving to refer the article to a select committee of five with instructions to report an amendment, which he would read as follows: * * *

Mr. Dennis in reply to Mr. Prentiss said that he and that gentleman lived within a quarter of a mile of one another, and he thought he knew something of the opinion of the constituents of the gentleman. So far as that knowledge extended they were a decidedly antibank community, and he much mistook them if they would sustain him in the positions he had just taken. He goes for the establishment of banks, and yet stands here the representative of as hard a constituency as there is in Wisconsin.

George Hyer had but a few words to say in reply to the remarks of his colleague, Mr. Prentiss. The subject of banks was one in which his constituents feel a deep interest, and so far as an expression has ever been given by them upon the subject it has been adverse to the arguments and position of his colleague. He, Mr. Hyer, should oppose the substitute of his colleague because it provided for the establishment of banks, a proposition which he believed to be in direct opposition to the will of the democracy of Jefferson County, and one which he felt himself instructed to oppose. Either his colleague or himself had widely mistaken the wishes of their constituents upon this subject, and for himself he wished so to record his votes and views upon the subject under consideration that his constituents need have no difficulty in "defining his position." He believed he represented a "hard currency" constituency—a constituency wholly opposed to banks; and it was such a constituency he wished to represent, for none other could he represent in carrying out his own views—he being in the classification of parties a "hard." The county of Jefferson, as regards the paper currency, was unfortunately located—it is an interior county just far enough from the brokers and money shavers of Milwaukee to share largely in all the fraudulent and broken bank paper in which the money brokers of that city are speculating—an imposition to which they will be subjected so long as bank paper is permitted to circulate as a currency; and it is far enough from the mining district not to be benefited by its hard money currency. The people of that county are an agricultural people, and their principal product is wheat, which, if they wish to raise money on, they are obliged to take to Milwaukee to market. There is no other cash market within their reach, and here they are paid off in miserable rags, to convert which into money, gold and silver, they are obliged to suffer a shave of three or four per cent. Gentlemen say if we exclude paper wholly from circulation there will be a depreciation in the price of wheat of three or four cents on the bushel. He, Mr. Hyer, did not believe such a depreciation would take place, but if it did it would then be preferable to the present shaving system. He did not believe Jefferson County had

been free for the past eight years from an unequal share of bad paper in its currency, and he believed the people were now ready and anxious to free themselves from the trash which has been so long imposed upon them as money.

One word more, as to the word "crawfish": He was a Democrat from the crawfish, but not a crawfishing Democrat. When among his constituents he prided himself as being a "crawfish" Democrat—for as he and they understand the nature of that fish, when it gets hold, "it holds on"—but as he understands the term here a "crawfish" Democrat gets hold only "to let go." He wished gentlemen to be more particular in the application of the term.

Mr. Prentiss said that he knew many men of his county who were favorable to banks. In fact such seemed to be the opinion of all with whom he had conversed in his neighborhood.—*Argus,* Oct. 27, 1846.

On motion, the convention resolved itself into committee of the whole for the consideration of the majority and minority reports [on] No. 2, "Article on suffrage and the elective franchise," Mr. Baird in the chair. And after some time spent therein [the committee] rose and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Moses M. Strong the convention took a recess until two o'clock P. M.

The bill was therefore passed under the title of "Article on banks and banking."

The convention then resolved itself into committee of the whole, Mr. Baird in the chair, on

Suffrage and Elective Franchise

The majority and minority reports were before the committee, which the Chair decided to take up section by section. The first section was accordingly taken up.

Moses M. Strong had some amendments to offer to perfect the report, to prevent any unnecessary discussion upon its provisions. He remarked that if the amendments elicited any debate, he should withdraw them and introduce them again at some future stage of the proceedings on this subject. One of

these amendments was to extend the right to all Indians who have been declared citizens by laws of the United States and was adopted. Another was the exemption of voters from arrest on the day of election, to which there were many objections raised, and was accordingly withdrawn. Another was to excuse voters from attending courts of justice on election days, which was also debated and withdrawn.

Mr. Ryan offered an amendment to amend the report by striking out "viva voce" and make all elections by ballot, which amendment he supported at considerable length.

Mr. O'Connor was in favor of the amendment. He had seen the evil consequences arising from the system of voting viva voce in Canada, where men would be fearful of voting as their consciences would dictate, as they would thereby offend their masters.

Mr. Whiteside was opposed to striking out; his experience convinced him that the viva voce system was preferable for various reasons, among which was that it was the most expeditious method, and afforded greater facilities for making returns.

Mr. Burnett was also in favor of the viva voce system, and among the reasons he gave were the comparative ease with which contested elections may be decided where this method of voting is adopted, and the prevention of legal voters who may have been born in another country and not able to read our language, as well as those who may have been born among us and not taught to read or write their mother tongue, being imposed upon by false ballots thrust upon them by designing men of all parties, to serve their own particular ends, and against the wishes of such voters.

Mr. Baker thought that to compel men to vote viva voce was violating a fundamental law of our institutions. He took the ground that every citizen of the United States was a freeman—a sovereign in his own right, and was responsible to no one how he voted; it was a matter between his conscience and his God for whom he voted. He would vote for the amendment.

Moses M. Strong said he was not tenacious of this point. He was in favor of it himself, but would admit that he believed the majority of the people of the territory were in favor of the ballot system; which was the reason why he had not defended the point.

The question was taken on Mr. Ryan's amendment to adopt the ballot system, and carried.

The convention then adjourned to two o'clock.—*Express*, Oct. 27, 1846.

TWO O'CLOCK, P. M.

The convention again resolved itself into committee of the whole for the further consideration of the minority and majority reports on suffrage and the elective franchise, Mr. Baird in the chair. And after some time spent therein [the committee] rose and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

Mr. Tweedy moved that the first section of said article, as amended, be written out in a legible hand by the secretary, which was agreed to.

On motion of N. F. Hyer, the convention adjourned.

AFTERNOON SESSION

Mr. Burnett offered an amendment to strike out the clause which excepts postmasters from ineligibility to hold office under the state government. This was another fruitful topic for discussion.

Mr. Magone was opposed to allowing postmasters to hold office under the state, as they would be liable to exert an undue influence in an election for United States senator for instance, if elected to a seat in the legislature.

Mr. Noggle proposed an amendment to the amendment by excepting those postmasters only from eligibility, who received pay or emoluments from the general government, observing that a large proportion of the postmasters in the territory held such offices not for any emolument to themselves but for the convenience of the neighborhood in which they reside.

The question was then taken on Mr. Burnett's amendment, and it was lost.

Mr. Ryan got the floor and proposed several amendments to the first section, each of which was discussed at considerable

length; the first was to strike out the clause requiring a residence of "ten" days in any county or town to vote at any election therein, and to make it "thirty" days.

This amendment was strenuously opposed by Moses M. Strong and advocated by Messrs. Randall and Barber. The ground taken by the advocates of the amendment was the comparative ease with which "pipe-laying" could be carried on in adjoining counties, were it only requisite that a man should be obliged to reside in a county only ten days to allow him the privilege of voting therein.

The question was finally put, and the amendment lost.

The second and third amendments were to strike out the portions of the report exempting foreigners from declaring their intentions of becoming citizens before being allowed to vote, in case Congress should dispense with such requisition. These amendments were also discussed for an hour or two by Messrs. Ryan, J. Y. Smith, Burnett, and others.

Mr. Harkin said he was a foreigner, but did not wish to see any distinction made between foreigners now in the state and those who might hereafter come into it. Those who were now in the country had declared their intentions before being allowed to vote, and he never wished to see a foreigner come up to the polls to vote who begrudged taking this oath of allegiance.

Mr. Huebschmann was also a foreigner and took the same view of the case.

The question upon these two amendments was taken, and they were severally adopted.

The report as it stood would have given to foreigners the privilege of exercising all the rights and privileges of citizens of the United States, while they would be exempted from any of their duties; and also from any prosecution for treason against the country in which they were exercising these rights and privileges.

The next amendment came from Mr. Reed, which was to allow electors to vote at state elections in any part of the state in which they may chance to be at the time of holding such elections, which was carried without much opposition.

Moses M. Strong offered an amendment as follows, "to strike out the word 'Indian' and insert 'any male Indian of the age of twenty-one years and upwards,' " which amendment [was] adopted.

An amendment was then introduced to strike out "six months" and make it necessary to reside one year in the state before exercising the right of suffrage. This also elicited considerable debate.

Moses M. Strong said he was in favor of this amendment, and was before the report was submitted, but was overruled by the majority of the committee. He was convinced that the measure would be popular in his section of the country, for the reason that it would prevent the interference in elections of a numerous class of individuals called "suckers," who come up to the mines in the spring, and take the "sucker shute" in the fall. These were residents of the state of Illinois, who employed themselves on various ways about the mining region during a portion of the year, and would, if six months only were necessary to qualify them for voters, exercise that privilege in this state.

Mr. Baker also spoke in favor of the amendment. And it was ultimately carried.

Mr. Holcombe introduced an amendment to extend the right of suffrage to "half-breeds," which was adopted. He also offered an amendment to allow the oath of allegiance or declaration of intentions to be made and filed in the office of the clerk of the board of supervisors of a county, observing that in La Pointe County there was no court of record, such as was prescribed by the article, and a man would be compelled to travel some hundreds of miles to file his oath or declare his intentions.

Mr. Ryan amended by allowing such a course to be taken in counties where courts of record do not exist, which was adopted.

Marshall M. Strong offered, as an amendment, to add to the first section a prohibition of the right of suffrage to paupers, and that laws be passed to prohibit habitual drunkards, idiots, insane persons, or those convicted of infamous crimes, such as murder, arson, or forgery, from voting. The clause prohibit-

ing paupers was stricken out upon motion of Mr. Magone, and the remainder was adopted.

Mr. Giddings offered an amendment to strike out the word "white," so that it would read "any male person," etc., which he subsequently withdrew.

The committee then rose and reported progress, and leave was granted to sit again.—*Express,* Oct. 27, 1846.

Wednesday, October 21, 1846

The journal of yesterday was read and corrected.

Petitions were presented and referred as follows:

By Mr. Burchard, a petition of 85 inhabitants of Waukesha County, asking that a provision be adopted in the constitution allowing all persons to enjoy the elective franchise without distinction of color, which on his motion was referred to the committee of the whole.

By Mr. Fuller, a petition of citizens of Wisconsin Territory, asking to have a provision engrafted in the constitution exempting from execution a certain amount of property; also, a petition of citizens of the county of Dane on the same subject, which, on his motion, were referred to the committee on miscellaneous provisions not embraced in the subjects committed to other committees.

Marshall M. Strong asked that leave of absence be granted to Mr. Dickinson. Leave was granted.

Moses M. Strong, from the select committee to which had been referred the rules for the government of this convention to revise and correct, reported the same back to the convention with amendments. The said report was accepted and the committee discharged from the further consideration of the subject.

Marshall M. Strong moved to amend the report, so that the morning hour of [meeting] be ten o'clock. And the question having been put, it was decided in the negative. And a division having been called for, there were 15 in the affirmative, negative not counted.

Moses M. Strong moved that the rules as reported be adopted and that 200 copies be printed in pamphlet form, and in connection therewith a list of the standing committees, the names of the members of the convention, their residence and boarding house, which was agreed to.

Marshall M. Strong, from the committee on the constitution and organization of the legislature, reported No. 10, "Article on the constitution and organization of the legislature."

"The committee on the constitution and organization of the legislature report the following article:

"Section 1. The legislative power shall be vested in a senate and house of representatives.

"Section 2. The number of members of the house of representatives until otherwise provided shall be 45, which number shall never be diminished, but may be increased by law to any number not greater than 100; the senate shall at all times equal in number as nearly as may be one-third of the number of the members of the house of representatives.

"Section 3. The legislature shall provide by law for an enumeration of the inhabitants of this state in the year 1855, and at the end of every

ten years thereafter, and may also provide for such enumeration in the year 1848; and at their first session after each enumeration so made as aforesaid, and also after each enumeration made by the authority of the United States, the legislature shall apportion anew the representatives and senators among the several districts according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy.

"Section 4. The state shall be divided by the legislature at its first session after each new apportionment into as many representative districts as there shall be representatives to be elected, and also into as many senate districts as there shall be senators to be elected; such districts shall be composed of contiguous territory.

"Section 5. The representatives shall be chosen annually on the day of the general election, by the qualified electors of the several districts; the senators shall be chosen biennially for two years, at the same time and in the same manner as the representatives are required to be chosen.

"Section 6. Senators and representatives shall be qualified electors in the respective districts which they represent, and shall have resided at least one year in the state.

"Section 7. No person holding any office under the United States, postmasters excepted, shall be eligible to either house of the legislature.

"Section 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may provide. Each house shall choose its own officers.

"Section 9. Each house shall determine the rules of its proceedings and judge of the qualifications, elections, and returns of its own members; may punish contempts, and its members for disorderly behavior; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause.

"Section 10. Senators and representatives shall in all cases except treason, felony, and breach of the peace be privileged from arrest; nor shall they be subject to any civil process during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

"Section 11. The legislature shall meet at the seat of government on the second Thursday of January in every year, and at no other period, unless otherwise directed by law or provided for in this constitution.

"Section 12. The governor shall issue writs of election to fill such vacancies as may occur in the senate and house of representatives.

"Section 13. The style of the laws of this state shall be, 'It is enacted by the legislature of the state of Wisconsin as follows, viz.'

"Section 14. Each member of the legislature shall receive for his services two dollars for each day's attendance during the first thirty days of any session, and one dollar for each day's attendance during

the remainder of such session, and ten cents for every mile he shall travel in going to and returning from the place of meeting of the legislature, to be computed by the most usually traveled route.

"Section 15. Every bill which shall have passed both houses of the legislature shall be presented to the governor; if he approve, he shall sign it and transmit it to the secretary, but if not, he shall return it to the house in which it originated, with his objections, which shall be entered on the journal of the house; and if such house shall upon reconsideration again pass it by a majority of all the persons elected to such house, it shall be sent, with the objections, to the other house, and if approved also by a majority of all the persons elected to that house, it shall become a law; but in such cases, the votes of both houses shall be determined by ayes and nays, and the names of the members voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days after it shall have been presented to him, the same shall become a law in like manner as if he had signed it. And all bills which shall have been presented to the governor twelve hours before the end of the session of the legislature shall be signed by him or returned with his objections."

The said report was accepted and read the first and second times and referred to the committee of the whole and ordered printed.

Resolutions were introduced and read as follows, to wit:

By Wm. R. Smith, "*Resolved,* That the committee on miscellaneous provisions be instructed to embody in their report the following articles:

"First. The political year shall begin on the first day of January.

"Second. WHEREAS ministers of the gospel are by their profession dedicated to the service of God and the care of souls, and ought not to be diverted from the great duties of their functions, therefore no minister of the gospel or priest of any denomination whatsoever shall at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding any civil or military office or place within this state.

"Third. All property of the wife owned by her at the time of her marriage and that acquired by her afterwards by gift, devise, descent, or otherwise than from her husband shall be her separate property. Laws shall be passed providing for the registry of the wife's property and more clearly defining the rights of the wife thereto, as well as property held by her with her husband."

By Mr. Cooper, "*Resolved,* That the sergeant at arms shall prohibit smoking in this hall during the daytime while this convention shall remain in session."

By Mr. Moore, "*Resolved,* That the subject on negro suffrage be submitted to the people in a distinct proposition to be voted on at the next general election, and, if approved, shall become a part of the constitution."

The following resolution was taken up and adopted, to wit: "*Resolved,* That the committee on the organization and functions of the

judiciary be instructed to inquire into the expediency of providing in this constitution that the legislature, at its first session after the adoption of the constitution, shall provide by law for the appointment of three commissioners, whose duty it shall be to revise, reform, simplify, and abridge the statutes and the rules of practice, pleadings, forms, and proceedings of the courts of record of this state, and to report thereon to the legislature, subject to their adoption and modification."

The following resolution was taken up and adopted, to wit: "*Resolved,* That the committee on miscellaneous provisions not embraced in the subjects committed to other committees be instructed to inquire into the expediency of introducing a provision to be incorporated in the constitution, forever prohibiting imprisonment for debt."

The resolution introduced by Mr. Strong on yesterday, relative to terminating all debate on No. 2, "Article on suffrage and elective franchise," was taken up, when Mr. Hunkins moved that said resolution be laid on the table. And the question having been put, it was decided in the affirmative. And a division having been called for, there were 49 in the affirmative and 24 in the negative.

The following resolution was taken up and adopted, to wit: "*Resolved,* That the committee on expenses of this convention be instructed to ascertain and report the amount due the members of this convention for mileage to and from this place."

The resolution introduced by Mr. Cruson on yesterday, relative to education, was taken up, when Mr. Cruson moved to refer the same to the committee on education, [schools, and] school funds, which was agreed to.

The following resolution was then taken up, to wit: "*Resolved,* That no person or persons shall ever be permitted to purchase or own any real estate within this state who are not capable of becoming citizens of the United States." Mr. James moved to refer the same to the committee on miscellaneous provisions, which was agreed to.

The convention then resolved itself into committee of the whole for the consideration of No. 2, "Article on suffrage and the elective franchise," Mr. Baird in the chair. And after some time spent therein, rose and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Mr. Ryan the convention took a recess until two o'clock, P. M.

Mr. Reed offered an amendment to the report, to strike out "twenty-one" and insert "eighteen" as the age at which citizens should become eligible to exercise the right of suffrage.

Mr. Baker moved to amend the amendment by striking out "eighteen" and inserting "twenty-five."

The question was first put upon Mr. Baker's amendment, which was lost, and then recurred upon Mr. Reed's, which shared the same fate.

Mr. Giddings offered an amendment to strike out the "white" before male persons, which would extend the right of suffrage to every male person over twenty-one years of age.

Mr. Magone offered as an amendment that the word male be stricken out and the right of suffrage be extended to females as well as males.

Moses M. Strong hoped the gentleman would withdraw the last amendment and allow those in favor of negro suffrage to obtain a vote and have a fair test of the question.

Mr. Magone was in favor of females voting and wished to tack the motion to a popular resolution to insure its success.

Mr. Strong said he was a friend to females, and it was for that reason he did not wish to see them tacked on to negroes.

Some further conversation passed between the gentlemen on the subject, and the question was then put on the adoption of Mr. Magone's amendment, which was lost.

The question then recurred upon the amendment of Mr. Giddings to strike out the word "white."

Warren Chase supported the amendment, not from any personal considerations, for he was connected with abolitionism in no manner or form; neither was there a negro in the county which he represented; but he considered it a great matter of expediency to abolish this distinction; the existence of this one word in the article was, in his view, the very foundation upon which the abolition party would be raised and other parties distracted.

Mr. Ryan was opposed to the amendment. In the first place, he believed that this extension of the right of suffrage would cause our state to be overrun with runaway slaves from the South, who now made the Canadas their point of destination. He believed God had placed an insuperable mark of separation upon the two races, and he believed that those whom God had placed apart no man should bring together, as much as he did the command "that those whom God had joined together no man should put asunder." It was not right to mingle together two races whom God had declared could not mingle. Mr. Ryan continued his remarks at some length, citing the situation of the colored population in the city of New York as an instance

of their abject social condition and habits, where, he said, every negro was a thief, and every negro woman far worse, and called upon any gentleman present to refute this position. He adverted to the system of colonization as the proper mode of effecting the object aimed at by those friendly to the negro race, and bade Godspeed all who were endeavoring to elevate this unfortunate class of men, but thought it would be an injustice to the negroes themselves, as well as whites, to place the two races in the same scale of social equality.

Mr. Whiteside was also opposed to the proposed amendment and supported his opposition at some length.

Moses M. Strong came out in a violent speech in opposition to negro suffrage. He had not intended to say anything on this subject, but to leave it to be settled by the committee; there was less reason for him to make a speech now, as everything he could have said had been said by the member from Racine and his colleague. This much he would say, however, that he was teetotally opposed to negro suffrage in any manner or form that could be devised. If this negro clause was inserted in the constitution, he could promise gentlemen that it would not receive fifty votes west of Rock River; the people would deem it an infringement upon their natural rights thus to place them upon an equality with the colored race. He came down upon the abolition party like a perfect avalanche; was in favor of no half-way measures with them, but would give them war—war to the knife, and the knife to the hilt! He alluded to the fact that the member from Winnebago had the largest proportion of negroes in his county of any other in the state, yet he had said nothing in favor of their being allowed the right of suffrage, and he hoped every Doty man in the committee would vote with him on this question.

Mr. Tweedy next took the floor in support of the substitute. His remarks will probably be published hereafter.

Marshall M. Strong said he had voted for and advocated the spirit of this doctrine in the legislature, but had since changed his views on the subject and would now vote against it.

General W. R. Smith wished to correct a remark made by the gentleman from Milwaukee in regard to the existence of negro

suffrage in Pennsylvania and went into quite a lengthened essay on the rise and progress of the system in that state from the time of William Penn down to the adoption of the present constitution.

Mr. Bevans was opposed to the principle contained in the amendment. He respected the philanthropic feelings of the gentlemen who advocated the elevation of an unfortunate class of beings, but thought they took the wrong course to secure it. He moved that the committee rise and report progress, which motion was carried and the committee rose.

The convention then adjourned to two o'clock.—*Express,* Oct. 27, 1846.

TWO O'CLOCK, P. M.

The convention again resolved itself into committee of the whole on No. 2, "Article on suffrage and the elective franchise," Mr. Baird in the chair. And after some time spent therein rose and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Mr. Crawford the convention adjourned.

Mr. Ryan again took the floor as he said to make one remark more on this subject, but instead of one remark occupied about an hour with many remarks, all in opposition to the proposed amendment.

General John Crawford wished to make a remark or two somewhat digressive from the subject, he said, and asked if such would be in order. (Go on, go on.) Mr. Crawford then proceeded as follows:

Mr. President—I will suppose a case. Supposing there was a convention of delegates assembled to frame a constitution consisting of one hundred and twenty members, and there were amongst them twenty Whigs, very docile, and one hundred Democrats. Amongst the Democrats there were twenty-five lawyers, and each lawyer should occupy the body two days in long and useless speeches that would convey nothing more than a common-sense man could convey in five minutes. The question is, What is the difference in the time spent? And who is responsible for the useless waste of that time? Supposing they

were determined to saddle upon the people such obnoxious features as pains and penalties, that the people would not adopt the constitution. Who is to blame? Why, sir, the remaining seventy-five must answer for it! But I hope such a thing will never happen in our glorious Wisconsin.

Mr. Gibson did not wish to occupy the attention of the committee but a few moments. If he had properly understood the remarks of the gentleman from Iowa, one of his principal objections to allowing the colored population the right of voting was that the people would object to the constitution. If the people of the west were opposed to negro suffrage, the people of the east were equally in favor of it, and the north and east as strenuously advocated this question of free suffrage as the west opposed it. This feeling was increasing daily and would continue to increase as long as this question was agitated. The gentleman from Racine had intimated that should we extend to the colored race the right of free suffrage and still refuse to commingle, intermarry, and eat and drink with them, it would not benefit them at all; it was all idle talk. The same objection would bear equally against the Indian as the negro—the same principle would operate with the Indian; yet he had voted for the extension of the right of suffrage to the Indian! He was opposed to sustaining the institution of slavery in this country and would vote against it in any manner or shape. The state of New York had tried the system of negro suffrage under certain restrictions and was so well satisfied of its justice that the late Democratic constitutional convention had submitted a separate proposition to the people, for their decision, providing for the extension of the right without the former qualifications. He believed the whole system of a republican government opposed to depriving negroes of the right of suffrage—the whole principle of republican institutions, from foundation to capstone, opposed to infringing upon the natural rights of any man, and he could not, therefore, vote for depriving this portion of citizens of the right of voting.

Mr. Manahan could not vote for depriving men of their right of suffrage unless also relieved from taxation; he had always heard and believed that taxation and representation should go together.

Mr. Randall spoke for some time in favor of the amendment, after which the question was taken on the amendment, and it was lost.

Mr. Bevans introduced an amendment to prohibit the right of suffrage to those who had resided in the state six years and neglected to become citizens of the United States.

The question elicited considerable discussion, in which Messrs. Bevans, Moses M. Strong, Ryan, and Harkin participated.

The question was taken on the amendment, and it was lost.

The committee then, on motion, rose, reported progress, and asked leave to sit again.

The convention then adjourned.—*Express,* Oct. 27, 1846.

Mr. Bevans moved to add to the section the following: "*Provided,* That no persons who are not citizens of the United States, and who have resided six years within the same, having neglected to become citizens thereof according to the laws of Congress, shall be entitled to vote at any election in this state until they become naturalized citizens according to the laws of the United States."

Mr. B. said he thought this amendment would tend to improve the article. It involved the question whether foreigners who had become voters should afterwards be deprived of that privilege; whether those who had once enjoyed this right and privilege should be again deprived of it. There were many in the country who did not mean to become citizens of the United States, who might, notwithstanding, be able to vote under the article as it there stood. He was willing to extend the right of suffrage to all who owed allegiance to the government, who could be convicted of treason, but he could not extend it farther than that. No one would contend that the oath which is provided for in this article will render a man liable for treason to the United States. The amendment ought to be passed, as it would tend to induce foreigners to become citizens of the United States, that they may enjoy the same benefit in other states should they happen to remove. It ought to pass that the government may have a hold upon them, and he doubted much

whether this state could pass an act which would allow a man to be punished for treason. The state is not a sovereign to which a foreigner can announce his allegiance and thereby be clear from the allegiance he owes to his native country. He would not oppose but promote emigration to the country from abroad, but at the same time he would guard that emigration. The time had been when a state had the power of naturalizing foreigners, but now that power was conferred alone on Congress and the United States. He put it on this ground then: If a man will not show that he was disposed to become a citizen of the United States, to owe allegiance to the government which protects him, he ought not to vote. He was far from desiring to restrict the right of voting to none but American born citizens; he knew no difference between the native and naturalized citizen. Hostility to the foreigners did not influence him in offering the amendment; on the contrary he believed every good foreigner would agree with him that the principle was right, and could see no objection to it.

Moses M. Strong inquired of Mr. Bevans if this was all the amendments he had—if the amendment he had heretofore offered to allow none but citizens to vote had finally dwindled down to this proposition—or was this attempted to be thrown in and taken if the larger one could not succeed?

Mr. Bevans could not tell what was in the future.

Then, said Mr. S., I suppose we are to have that amendment too. He said he did not think that the citizenship of the elector had anything to do with voting. This was a difference not commonly taken and understood by those who talk on this subject. A man may be a citizen and not be a voter, and so he may be a voter and not be a citizen of the state or of the United States. The power to make foreigners citizens of the United States belongs to the United States; the power to prescribe the qualifications of electors has been lodged in the states, plainly showing that they are distinct powers. The convention then have full authority to act on this subject according to the Constitution of the United States, and they alone could and must determine the question. The amendment admits the right, the propriety of allowing foreigners to vote for six years, but not after-

wards unless they are fully naturalized. And what reason is given by the gentleman? Why they may be guilty of treason and ought to be punished. If it were a good argument after the six years, it would be no less good before, but the fact was it was never good and cannot be.

Mr. Harkin did not think the amendment any amendment at all. It could not be supposed possible that any man who had suffered and escaped from the iron oppressions of Europe would live on our rich prairies for six years and not become a citizen of the country. As for treason—shades of Montgomery and departed heroes! Did men think that traitors and treason would come from the country of Lafayette, of Montgomery, and Steuben? When necessity required, he and other natives of the same soil would again take up and wield the sanctified shillalah in defense of their adopted country.

Mr. Huebschmann had thought some such provision as that now proposed would be proper, but he could not on reflection believe it could be carried out in practice on just and equitable principles. There may be some unavoidable cause that will prevent a man from being naturalized at the end of six years, and which ought not to hinder him from voting. On this account he could not support it.

Mr. Ryan agreed with his friends, Messrs. Harkin, Strong, and Huebschmann, and gave several examples of the difficulty of procuring naturalization.

The motion to amend was lost, and the committee rising, the convention adj[ourned].—*Argus,* Oct. 27, 1846.

THURSDAY, OCTOBER 22, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

The resolution introduced by Wm. R. Smith on yesterday, relative to instructing the committee on miscellaneous provisions to inquire into the expediency of embodying in this [their] report certain articles, was taken up and adopted.

Mr. Baker offered as an amendment to direct the committee "to inquire into the expediency" of inserting the clauses contained in the resolution; he did not deem it courteous to peremptorily instruct them as to the duties they were to perform.

The amendment was accepted, and the resolution adopted.—*Express*, Oct. 27, 1846.

The following resolution was then taken up, to wit: "*Resolved*, That the sergeant at arms shall prohibit smoking in this hall during the daytime while this convention shall remain in session." Mr. Strong moved that the said resolution be laid upon the table, which was agreed to. And a division having been called for, there were 33 in the affirmative [and] 28 in the negative.

The following resolution was then taken up, to wit: "*Resolved*, That the subject on negro suffrage be submitted to the people in a distinct proposition, to be voted on at the next general election, and, if approved, shall become a part of the constitution." Mr. Strong moved that said resolution be referred to [the] committee of the whole, which was agreed to.

Hiram Brown moved that leave of absence be granted to Wm. C. Green. Leave was granted.

The convention then resolved itself into committee of the whole for the consideration of No. 2, "Article on suffrage and the elective franchise," Mr. Baird in the chair. And after some time spent therein [rose] and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Moses M. Strong the convention took a recess until two o'clock, P. M.

The convention then resolved itself into committee of the whole, Mr. Baird in the chair, on suffrage and elective franchise.

The question before the committee was on the amendment

offered yesterday by Mr. Boyd, providing for the submission of the free suffrage question to the people with the constitution.

Mr. Boyd eloquently sustained the principle contained in this amendment as purely "democratic" in spirit, and he hoped to see it prevail.

Mr. Burchard said he conceived it proper to make a few remarks upon this question. It did not matter whether he was in favor of or opposed to the submission of this separate proposition to the people; whether he was in favor of it or not, it has to be submitted to the people. He would say, however, that he was not in favor of submitting the question to the people, because it had already been submitted to them. He called upon any gentleman on this floor—let him come from east, west, north, or south—to rise in his place and say he was not pledged upon this question. The delegates from the county which he in part represented he knew were all pledged upon this great question of free suffrage, and would not have been sent to this convention had they not been known to be favorable to it. He was in favor of negro suffrage before the election; his opinion on this question was well known, and he had been sent here to advocate this principle. His main reason for opposing this proposition was that it was uselessly lumbering up the constitution; the question has got to go to the people. He looked upon this separate proposition in this light: That members did not want to come out with their votes upon the question; they wished to bury it in committee of the whole, where no record of votes is made, and it is not therefore known to the people what is done. He wanted all hands to come up to the scratch and record their votes in the convention that their constituents may know who stood by them and faithfully carried out their intentions, and who did not. He would vote against the amendment for this very reason.

The amendment was discussed at great length by Messrs. Moore, Baker, and others in its favor, and Messrs. Bevans, Burnett, and Whiteside in opposition.

The question was finally taken on the adoption of the amendment, and it was lost.

Moses M. Strong then offered an amendment, providing for the extension of the right of suffrage to the half-breed Indians living in a civilized state, which was adopted.

Mr. Burnett moved to strike out the first section of the report as amended and insert one which he offered and which was read. The principle object of the amendment was to prevent foreigners from exercising the elective franchise in this state until they became citizens of the United States, which he sustained at some length, upon the ground of the unconstitutionality of extending the elective franchise to those who had not taken upon themselves the obligations of citizens of the United States, and did not believe the Congress of the United States would admit Wisconsin into the Union with such a clause in her constitution.

Moses M. Strong and Huebschmann opposed the amendment. The latter continued until the usual hour for recess, when, on motion of Mr. Vineyard, the committee rose and reported progress.

The convention then adjourned to two o'clock.—*Express*, Oct. 27, 1846.

Suffrage and Elective Franchise

Mr. Boyd offered the following amendment which was read:

"At the same time the constitution shall be submitted to the people for their adoption the following shall be submitted to them as a separate proposition for their adoption or rejection; the ballots for or against shall have written or printed thereon, 'For colored suffrage' or 'Against colored suffrage,' and shall be deposited in a separate box; and if a majority of the votes cast shall be 'For colored suffrage,' then the following provision shall be adopted and become part of the constitution; but if a majority of votes shall be 'Against colored suffrage,' then said provision shall be rejected, to wit: 'Section —. Colored male citizens possessing the qualifications otherwise than required by the first section of this article shall also have the right to vote for all officers that are or hereafter may be elective by the people.' "

Mr. Boyd said that some such amendment as was now offered was demanded by all parties of politics, and was a truly democratic measure. No man can truly represent on this subject the will of 1,300 inhabitants, and the best way to dispose of the measure would be to send it to the people. This course has been pursued in the New York convention on this subject, and when it has been once settled by them it will be conclusive, and all parties will acquiesce. But let the convention settle the matter, and it will not give satisfaction, as it will be said that the will of the majority has not been properly reflected. The measure would, he believed, break up the foundations of abolitionism. He did not believe the people of the west would be more likely to vote against the constitution because of the incorporation of this provision. They were, or professed to be, Democrats, and he did not believe that man was a Democrat who would not be governed by the will of the majority.

But if the negro were permitted to vote, he had yet to learn that it would tend to make an emigration to the state. It was not true that those states in which they are permitted to vote have more negroes than have those where they are debarred the privilege. He would not persecute the abolitionists. That would build them up, but he would let them alone. If a party which he did not like had a right principle, he would adopt that principle and act on it and let the party alone. There were merits in this measure and he hoped this convention would adopt them.

Mr. Burchard was opposed to the submission of this subject in this manner to the people, or in any other, because it had already been submitted to them and decided upon, when they elected the members of this convention. Many of the delegates stand on this floor pledged on this question. Besides they have been sent here to make a whole constitution, not a half one. He wanted no dodging responsibility on the measure.

Moses M. Strong moved so to amend the amendment that in those counties which did not vote for negro suffrage the negro should not be allowed to vote.

Mr. Bevans would say of this amendment, that if it was adopted and went to the people for a separate and distinct vote,

it would make no difference in the vote against the constitution itself. The people of the west would just as soon vote for the constitution with the clause allowing negroes to vote in it as they would with it in this form. There will be in their minds more fear of its being adopted in this form than if it were embodied; for, if embodied in the constitution, other questions will be involved and other interests unite to defeat it; but here it would stand out single and alone. Such a course is not fair. It does not give the opponents of this measure the same chance of being defeated as other measures have. The representatives of the west think that this is a dodging of the question—a shifting the responsibility from the shoulders of the representatives to that of the electors. Not so with them. They were ready to meet this question at any time. They know the will of their constituents, and they could speak at one time as well as at another. All they desired was to settle it now and have no further quarrels, jars, or fears.

Mr. Burnett: This convention all agreed had met to make a constitution, not to make the parts of one and to send other parts to the people. He was opposed to the principle of sending separate propositions to the people for their votes, as it would tend to distract their minds from the merits or demerits of the constitution itself. If the principle of sending these separate propostions to the people be a good one, why not send the bank question to them for a vote? Why not send every disputed question to them? As great controversies will undoubtedly arise on the provisions of the article to organize the judiciary, would gentlemen send these to the people for their decision? He, as one of the delegates of the convention, was prepared to vote on the question now and was willing to record his vote for it.

No man in all the discussions that have taken place on this subject has declared or even intimated that there is a majority of the voters of any county in the territory in favor of this measure; but on the contrary all say that they believe there is a majority opposed to it. Even the counties east of Rock River, for which they so stickle, are said to be opposed to the measure. If this be true, why, he would ask, should the con-

vention endanger the adoption of the constitution by allowing this measure, uncalled for and unpopular as it is, to be tacked on to it. Universally opposed as the west is to this measure, they have looked with very serious apprehension for the introduction of this proposition which they fear the east intend to saddle on them. They cannot be convinced that this is not the settled policy of the east. Legislative action, debates in House of Representatives and Council have all looked that way. This very measure they will consider in the same light as indicative of the feeling of the people of the east, intending to extend the negro suffrage over the free sons of the west. Sound as the great body of the people of the east may be on this subject—and he did not doubt but that they were sound—the miners scattered as they are over a vast tract of country, having scarcely any communion with the rest of the world, cannot be convinced of that fact. They will therefore strike at what they know to be most certain to carry, at the constitution itself. Are gentlemen, he would ask, prepared to venture the constitution abroad, sure to receive the 2,200 votes of Grant and 2,400 of Iowa counties against its adoption? If so let them vote for the measure now before the committee and they will have them so cast.

Moses M. Strong had come here to help frame a constitution, and he hoped if one was formed it would be a good one. He knew that among the different portions of the territory there was a diversity of opinion on various subjects. To make this diversity harmonize there must be a compromise and concession. The west had conceded the opposition to foreigners voting, and in turn they asked that the question of negro suffrage should be conceded. Negro suffrage at best was but a mere abstraction. No benefit will accrue to the negro and not fifty men be made voters if the measure should pass. But it had been said it would satisfy the abolitionists. Shall a firebrand be thrown into the whole west for the mere gratification of a handful of fractious abolitionists? Shall the constitution this convention are attempting to form be endangered for so small a price, and Wisconsin longer be forced to remain a territory? Something he thought was due to the west. That was the first

settled portion of the territory, though now the east outstripped. But the time was coming and that at no distant day, when the tide of emigration that was flowing into and filling up those counties would roll over the prairies and woodlands of Iowa and Grant. Already they began to feel the flood. Thousands of eyes were turned toward the gardens of the west, and many a man who had stopped a few days nearer the lake was among the emigrants. The people of the west will welcome the emigrant, but they want and expect him to come with a spirit of compromise. Already the habits and old customs of the miners are giving way. They are adopting the laws of the east; they are ready to sacrifice the government they have always enjoyed to one of which they are ignorant—to change county to a town government, for compromise; but he must beseech gentlemen not to force on them this negro suffrage.

Mr. Upham thought there was a very decided majority of the voters of Milwaukee opposed to negro suffrage. His own opinions on the subject, he believed, were well known. He never concealed them. He had seen the negro in the free states and he had seen him in slavery and could not make up his mind that he was not more abject, more despised in the first, than in the last.

He denied that the right to vote was a natural right of each and every man. It was a municipal regulation, a kind of franchise bestowed or withheld as the public good demanded, not something every man could claim, as he could his liberty or the pursuit of happiness. He was willing to concede that the Democratic doctrine was to extend this right as far as could be consistently done; but he was yet to learn that the public good would be promoted by allowing negroes to vote. Negroes would not be raised in the scale of beings by it and many of the whites would be offended. Believing as he did that a great majority of his constituents were opposed to the measure, he could not give it his vote. If gentlemen are, as they all say they are, of opinion that the measure cannot be carried in a single county, why would they put the people to the trouble of a vote? Is it simply to see how many will vote for or against? But the convention has been told that it would allay the feelings of the abo-

litionists. It would not do so. Their object is not here, but to abolish slavery in the South. He would not wage war with them; nor would he go out of his way to gratify their foolish demands, in the formation of the constitution for this state.

Mr. Moore made some remarks in favor of the measure, but the first portion in particular was lost to the reporter.

Mr. Baker was in favor of the measure proposed by his colleague. It would destroy the grounds on which the abolitionists stood and of consequence the party in this territory. He did believe that in the end it would result in no particular benefit to the negro race. He was despised, abject, and servile, and could not be raised from that condition in which prejudice had placed him, by giving him this privilege. But still he thought it best to place this provision in the constitution.

Mr. Whiteside could look on this amendment only as adding insult to injury. The opposition to negro suffrage had once voted down the proposition in a direct form, and now it comes to them in this indirect manner. This convention is but an assemblage of the people in their representative capacity. The word "democrat" is a compound of two Greek words, *demos,* people, and *archien,* to rule. But this is now accomplished not by all the people meeting en masse, but by representatives. As representatives all ought to be ready to meet this question; he as one was ready to meet it at the present time. It looked to him that to submit this measure showed the representatives wanting in decision of character or willingness to assume responsibility. A decision of the question here will just as well settle the same with the people as if it were submitted to them at the ballot box, as is proposed.

Mr. Brace said he had intended to say nothing on this subject, but he had now changed his mind; so many had spoken that he thought every man ought to say something. A vote that had been taken here showed that there were but thirteen men in the convention who were in favor of negro voting, and all agree that there is a very small minority of the people in its favor. Why then, for the sake of gratifying this small minority, he would ask, should any more time be spent on the subject?

Mr. Hunkins was opposed to the amendment to the amendment, because it made a distinction among counties, placing the power of saying who should vote and who should not in each county. He knew the diversity of opinion that existed in the convention and also among the community, and in his opinion the original proposition would quiet the matter.

Moses M. Strong: The same diversity exists in relation to allowing foreigners to vote; and if this amendment prevails he said he would move to submit the question allowing foreigners to vote to a separate vote of the people.

The vote was then taken on the amendment to the amendment, offered by Mr. Strong, and it was lost by 33 to 49.

Mr. Strong said the vote just taken showed that it was the intention of gentlemen to pass the amendment.

Mr. Parks: I voted against it because I am opposed to it, and for the same reason I shall vote against the amendment. My intention is to vote against every measure that I am opposed to the principle of; and I shall show to my colleagues that I am opposed to this measure in all its shapes and fear not to vote accordingly.

Mr. Parkinson had voted against the proposition of his friend and colleague for the reason just given by the gentleman from Waukesha. He always intended to vote as he pleased.

Mr. Berry would also vote as he pleased. He should vote for the amendment.

Moses M. Strong: I take it all back.

The vote on the amendment of Mr. Boyd was then taken, and it was lost by 33 to 49.

Moses M. Strong proposed an amendment which would do away with all doubt about allowing Indians, citizens of the United States, to vote, which was adopted without opposition.

Mr. Burnett offered the following as a substitute for the article:

"First. Every white male inhabitant of the age of twenty-one years, who shall be an actual resident of this state at the time of the adoption of this constitution, and who shall be either a citizen of the United States or who shall have declared his

intention to become such according to the law of Congress on the subject of naturalization, and in addition thereto shall have taken and filed in the office of the clerk of any court of record in this state an oath to support the Constitution of the United States and of this state.

"Second. Every male Indian of the age of twenty-one years, who shall be an actual resident of this state at the time of the adoption of this constitution, and who may have been a citizen of the United States by an act of Congress.

"Third. Every white male citizen of the United States, of the age of twenty-one years, not a resident of this state at the time of the adoption of this constitution, who shall have resided in this state for one year next preceding any election at which he may offer a vote: *Provided,* That no person shall vote at any such election, except for district or state officers, who shall not have resided in the county in which he may offer to vote for one month next preceding any such election; and all persons possessing the qualifications required by this section may vote for state officers in any county in the state and for district officers in any county in the district in which they may reside."

Mr. Burnett in support of this amendment said (we give but the points of his remarks) that it had been framed in the spirit of compromise. The entire population of the west, as well foreigners as natives and naturalized citizens, are opposed to the extension of the right of suffrage as contemplated by the report of the committee, while, if he understood the matter aright, the people of the east are equally in favor of it. The amendment he now proposed took a middle ground between the two. The principle of the amendment is to decide whether those who have resided here for some time and made their application should be placed on the same ground as those who shall come thereafter and make no efforts to become citizens. Those who are here and aid in the formation of the convention are secured in their rights, while others are required to become citizens.

The article as it now stands makes the foreigners citizens of the United States. The power to do this, he believed, did not reside in this convention or in any other state power. That power has been bestowed on the United States by the consti-

tution. The incorporation of the article as it stands into the constitution may have a tendency to prevent our admission into the Union. This he knew had been the case with the state of Michigan, and her constitution contained no broader provision in favor of foreigners than that he now proposed. He spoke with confidence that the incorporation of this measure would secure votes to the constitution among the people; but, if it were not incorporated, he would not answer for his portion of the territory. Opposed as those people are to allowing foreigners to vote, there are no people who are more desirous that every foreigner should become a citizen than they are.

Mr. Burnett denied being a Native American, as that word was understood in the political world. He had no feelings in common with that party.

Mr. Huebschmann rose and said: Mr. Chairman—The gentleman from Grant (Mr. Burnett) has alluded to the admission of Michigan into the Union and said Congress would probably not admit us if we leave the section on the elective franchise as it is. It is true, when Michigan applied for admission into the Union some members of the Senate of the United States objected to that clause in the constitution which permitted aliens to vote. This question gave rise to considerable debate, in which Senators Wright, Buchannan, Benton, and Thomas Morris participated and advocated the right of the state to make voters of whom she thought proper, and Mr. H. Clay, Clayton, and several others on the other side of the question. If permitted I will quote a few of the remarks of Mr. Buchannan. He speaks of the only two provisions in which the Constitution of the United States says anything about the qualifications of voters in relation to the mode of choosing the president: "Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors," etc.

In relation to the mode of choosing representatives in Congress: "The House of Representatives shall be composed of members chosen every second year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature."

On these sections Mr. Buchannan says: "These provisions seem to recognize in the states the most absolute discretion in saying who shall be qualified electors. There is no declaration or intimation throughout the whole instrument (Constitution of the United States) that these electors shall be citizens of the United States. Are the states not left to exercise this discretion in the same sovereign manner they did before they became parties to the federal constitution? There is at least strong plausibility in the argument, especially when we consider that the framers of the constitution, in order more effectually to guard the reserved rights of the states, inserted a provision that the powers not delegated to the United States are reserved to the states, respectively, or to the people. It is curious to remark that except in a few instances the Constitution of the United States has not prescribed that the officers elected or appointed under its authority shall be citizens, and we all know in practice that the Senate have been constantly in the habit of confirming the nomination of foreigners as consuls of the United States. They have frequently done so, I believe, in regard to other officers."

Senator Buchannan says further: "The older I grow the more I am inclined to be what is called a state-rights man. The peace and security of this Union depend upon giving to the constitution a liberal and fair construction such as would be placed upon it by a plain and intelligent man and not by ingenious constructions to increase the powers of the general government and thereby diminish those of the state. The rights of the states, reserved to them by that instrument, ought ever to be held sacred. If then the constitution leaves to them to decide according to their own discretion, unrestrained and unlimited, who shall be electors, it follows as a necessary consequence that they may, if they think proper, confer upon resident aliens the right of voting."

Buchannan further says on the subject of the power of Congress to reject a state constitution sent to it for ratification: "That Congress could not reject a constitution, except in the single case of which it was the guarantee, that of its republican character. It could not reject for ordinary provisions, for qual-

ification of voters, and such minutia. These were points of state regulation exclusively, and the absurdity of making them conditions of admission was proved by the facility of altering such provisions after the state was admitted and when they never would be submitted to Congress. The right of Congress to reject for matter found in the constitution was limited to the feature of republicanism. Of that Congress was the guarantee; whether the constitution was submitted to her or not, whether it was an old state or a new one, Congress was bound to guarantee the republican character of the state constitution, and for that purpose had cognizance over all the state constitutions, and for nothing else. Anything farther was an invasion of the rights of the states, and he was too truly and sincerely a friend of the rights of the states to suffer Congress to meddle with the qualifications of voters of any state, old or new."

Michigan was admitted into the Union by a large majority of the senators; and since that time the question of this right of the states has been considered as settled. Even some of the leading Whig papers, the New York *Tribune* and Albany *Evening Journal,* took strong ground in favor of it in some of their articles against the Native party. They took the ground that the Natives were foolish in endeavoring to change the naturalization laws, because it was left with the states to give the right of voting to foreigners whether they were naturalized or not.

But the gentleman from Grant (Mr. Burnett) intimates that it would be inexpedient to give the right of voting to so many foreigners, because many of them are ignorant and do not love the institutions of this country. They come here to better their condition, he says, and not because they love republican principles. Now, Mr. Chairman, you will very seldom hear such remarks fall from the lips of those who are really acquainted with the mass of the foreign population of this territory, and who have lived a length of time amongst them. Certainly a good many come here to better their condition, but they know when they come here that this country flourishes and gives them more opportunity to better their condition than any other country, because our institutions are republican; and they know that it

is every citizen's duty to sustain and support these institutions, and they are willing to bear their share of the burdens. In the present war with Mexico the foreign population of the United States have shown themselves as ready to fight for their adopted country and to risk their lives as any other portion of the people; and in fact in most of the states which were called upon by the general government for volunteers the companies consisting of foreigners were the first who started for the seat of war. In our own territory we have seen the same patriotic feeling amongst the foreigners. The Washington Guards, a company consisting of Germans, and the most of them not yet long enough in the country to have become citizens of the United States, the only fully organized and equipped volunteer company in this territory, as far as I know, offered, when it was believed that volunteers would be wanted at the seat of war, their services without delay to the general government, and were anxious to take the field. And I am sure that if Wisconsin had been called upon to furnish her quota of volunteers you would have found just as many of those born on the other side of the Atlantic ready to fill the ranks as of those born on this side of the Atlantic.

The charge against foreigners, that they are ignorant, if applied to them as a class, is untrue and unjust. And if there are amongst them as many or more who are ignorant as amongst the rest of our population, this is no reason that they should wait a long time before they can enjoy the right of voting. On the contrary, the right of voting will prove, and has proved to my knowledge, to be the best stimulant to make the indifferent ones use their best endeavors to inform themselves in relation to the institutions of this country. Give them the right of voting, and you elevate them in their own eyes and in the estimation of the community. You throw political responsibility upon them, which impels them to investigate the political questions of the day, and they will thus gain experience and pursue an enlightened political course. In the parts of the territory where most of our foreign population live the most of those who were so strenuously opposed to foreigners voting on the question of a state government and for

delegates to frame a constitution have found that their fears and apprehensions were unfounded, and are now in favor of extending the elective franchise to the foreign population. They have seen that foreigners know how to make use of their political rights as well as those from the states.

I contend that putting, in respect of political rights, all the different national elements composing the population of Wisconsin on a par is the best policy which we can pursue. We all, I believe, desire that these different national elements should as soon as possible unite and amalgamate and form one whole people, the people of Wisconsin. You cannot by chemical process unite different elements or bodies, unless there exists a certain degree of chemical affinity or similarity amongst them; and, the more affinity there is between these elements, the easier and the quicker they will be united and a new substance formed out of them. The same law of nature is equally true in respect to mankind. If you put the different national elements on a par and give them all the same political rights, you will promote and facilitate their amalgamation. The more distinctions you make between them politically, the more you delay this great end, which is so essential to the future welfare of this state. And in fact I consider only one measure equally important as the political equality which I ask for, and that is a good common school system, which will give every individual growing up amongst us an opportunity to develop the faculties of his mind. Political equality and good schools will make the people of Wisconsin an enlightened and happy people. They will make them one people.—*Argus,* Oct. 27, 1846.

TWO O'CLOCK, P. M.

The convention again resolved itself into committee of the whole for the consideration of No. 2, "Article on suffrage and the elective franchise," Mr. Baird in the chair. And after some time spent therein rose and by their chairman reported the said article back to the convention with amendments.

J. A. Barber defended the substitute as follows: Mr. Chairman—I cannot concur in the report of the majority of the committee. And the propositions are so deeply affecting the inter-

est and future welfare of this state—the permanence and supremacy of the general government—that I feel that I should fail of my duty if I contented myself with simply recording my vote against it.

The reported article not only proposes to make citizens of aliens who may be in the state at the time of the adoption of this constitution, but of all who hereafter come, to all future time. Is this within the power of the state? I contend that it is not. Under the confederacy, before the adoption of the present constitution, each state retained the authority of naturalizing aliens and exercised the same as they severally thought proper. But by the adoption of the Constitution of the United States the states surrendered and ceded to the general government the authority to prescribe an uniform rule of naturalization.

And it was for the purpose of establishing an uniform rule that this power was vested in the general government. The Congress of the United States have prescribed a rule pursuant to the authority granted.

The rule, or law, to be uniform, must be exclusive in its nature—exercised only by the general government—otherwise the rule would not be uniform—and the same evil now exists as under the confederacy.

But it is said that we do not propose to make the alien a citizen, but to confer upon him certain rights—to make him, at most, a denizen. But the alien is already a denizen. Blackstone defines a denizen as a person not a native or a naturalized citizen or subject, but occupying a middle space, having the right to hold and transmit land. By our present laws the alien can inherit, hold, and transmit real estate, and enjoy all the rights of a citizen except the elective franchise. Confer upon him the right of suffrage and he becomes to all intents a citizen.

The Constitution of the United States provides that a citizen of one state shall be entitled to all the privileges and immunities of the several states. If we have the power to confer upon the foreigner the elective franchise, we make him a citizen, not only of Wisconsin, but entitled to citizenship in every other

state, and totally defeat the exercise of this power delegated to Congress.

I do not oppose the adoption of this provision in the constitution because I am averse to immigration of foreigners among us; on the contrary, I look upon the foreigner as my brother—a member of the same great family of mankind—participant of the bounties of the same great benefactor—endowed with the right and enjoined to seek that land where life, liberty, and happiness may be best secured. And had I the power, or had this state the power to open wider the door to the emigrant, I would say establish liberal laws to encourage the emigrant hither and to secure and protect him when here.

But the power of conferring citizenship is vested only in the Congress of the United States.

All writers on constitutional law—Kent, Story, Sargeant, and Rawle—all concur that the power to the general government to naturalize the alien is exclusive. And such is the whole current of decisions of all the courts, both state and United States courts. The entire acquiescence of all the old states in this doctrine of the exclusive nature of this power is proof sufficient that we have not the power now attempted to be exercised by this state. If, then, this power be vested solely in Congress, it is unwise, it is inexpedient, it is unconstitutional to engraft this provision in our constitution, and I hope the amendment of my colleague will prevail. Michigan, with a provision like that proposed by my colleague, met with serious opposition to her admission into the Union, and it was probably more owing to the desire of the dominant party, then slightly in the ascendancy, to increase their strength than to principle or a fair construction of constitutional law that Michigan owes her admission.

The proposed amendment will place us on the same footing of Michigan, and we may cite the admission of Michigan as a precedent.

The present dominant party have no need of increase of strength and I seriously fear that we shall ask in vain for admission with these obnoxious provisions.

Again, I oppose the report because if adopted in the constitution it will endanger its rejection by the people. I hope, therefore, that the amendment will prevail, as less endangering the rejection by the people of the constitution and our admission into the Union.

Before any question was taken on the amendment, the committee, on motion of Moses M. Strong, rose and reported the article to the convention as amended.—*Argus,* Oct. 27, 1846.

Mr. A. H. Smith moved to amend the report by inserting in the last line of the first section, between the words "in" and "any," the words "the office of the clerk of." And the question having been put, it was decided in the affirmative. And a division having been called for, there were 55 in the affirmative, negative not counted.

Moses M. Strong moved to amend said report by striking out the amendments as reported by the committee of the whole and inserting the following: "The following persons and no others shall be entitled to vote at all elections in this state for all officers which may be elective by the people, under the provisions of this constitution or of any law made in pursuance thereof:

"1. Every white male inhabitant of the age of twenty-one years who shall be an actual resident of this state at the time of the adoption of this constitution, and who shall be either a citizen of the United States, or who shall have declared his intention to become such according to the laws of Congress on the subject of naturalization, and in addition thereto shall have taken and filed in the office of the clerk of any court of record in this state an oath to support the Constitution of the United States and of this state.

"2. Every male Indian of the age of twenty-one years who shall be an actual resident of this state at the time of the adoption of this constitution, and who may have been made a citizen of the United States by any act of Congress.

"3. Every white male citizen of the United States of the age of twenty-one years, not a resident of this state at the time of the adoption of this constitution, who shall have resided in this state for one year next preceding any election at which he may offer to vote. *Provided,* That no person shall vote at any such election, except for district or state officers, who shall not have resided in the county in which he may offer to vote for one month next preceding any such election; and all persons possessing the qualifications required by this section may vote for state officers in any county in the state and for district officers in any county in the district in which they may reside."

Pending the question on said amendment Mr. Hicks moved that the said report with the amendments be recommitted to the committee of the whole, which was disagreed to.

The question then recurred on the adoption of the amendment proposed by Mr. Strong. And having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those

who voted in the affirmative were [affirmative 14, negative 81; for the vote see Appendix I, roll call 29].

Mr. Burchard offered as a substitute to the report of the committee of the whole the minority report of the committee on elective franchise.

A. Hyatt Smith offered an amendment to the first section, which took precedence of the substitute.

Here rose a dozen claimants for the floor, and all kept their places for some minutes, when Moses M. Strong, as a compromise, as he said, proposed to strike out the first section of the report and insert a substitute therefor.

Mr. Hicks saw some maneuvering he did not exactly like and moved to recommit the report and amendments to a committee of the whole, which motion was lost.

Mr. Baker offered an amendment, the same which had been discussed in committee of the whole, i. e., the submission to the people of the free suffrage question as a separate proposition, to be voted upon at the same time with the constitution.

The question was first taken upon Mr. Strong's substitute for the first section—which was lost.—*Express,* Oct. 27, 1846.

Mr. Baker moved to amend the first section by adding the following:

"At the same time the constitution shall be submitted to the people for their adoption the following shall be submitted to them as a separate proposition for their adoption or rejection; the ballots for or against shall have written or printed thereon 'For colored suffrage,' or 'Against colored suffrage' and shall be deposited in a separate box; and if a majority of the votes cast shall be for colored suffrage, then the following provision shall be adopted and become part of the constitution, but if a majority of the votes shall be against colored suffrage, then said proposition shall be rejected, to wit: Colored male citizens possessing the qualifications otherwise required by the first section of this article shall also have the right to vote for all officers that are or hereafter may be elective by the people."

And the question having been put on said amendment, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 47, negative 51; for the vote see Appendix I, roll call 30].

Mr. Burchard moved to amend the report by striking out all after the word "article" and inserting the following as a substitute therefor:

"Section 1. Every male person of the age of twenty-one years or upwards who shall be a citizen of the United States or who shall have filed an oath to support the Constitution of the United States in the

clerk's office of a district court shall be entitled to vote at any general election for all officers created by this constitution or established by the legislature under the constitution to be elected by the electors of this state: *Provided,* That he shall have been a resident of this state for six months and of the county for one month previous to such election.

"Section 2. All votes shall be given by ballot and under such regulations as the legislature shall establish.

"Section 3. On the day of such general election, all electors shall be exempt from any public duty, except in time of public danger, and privileged from arrest during attendance at, and going to and from, such election, except for breach of peace, felony, or treason.

"Section 4. No person shall be deemed to have lost his residence by reason of absence on business of the United States or of this state.

"Section 5. No soldier, seaman, or mariner in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed in any military or naval place within the same."

Pending the question on said amendment, on motion of Mr. Cooper, the convention adjourned.

The question then recurred on Mr. Baker's amendment.

Mr. Judd said that before giving his vote he desired to say a few words and a few only, for neither his inclination nor the state of his health would permit him to maintain his position on the floor but for a few moments at farthest. He was glad the question was now presented in a plain and distinct form. He should vote for the proposition as one in his opinion best calculated to meet the case, but he should do so for no such reasons as those stated by the gentleman from Waukesha (Mr. Randall) yesterday, when in committee of the whole upon this subject. He should vote for this proposition simply and plainly, as the best practicable manner of disposing of it. It is true that the negro is not a white man, nor can we make him such; but it is nevertheless true that he is here among us; he has been born here, brought up here, speaks our language, and ours only; he knows no other country or government, is protected by our laws, and made subject to them, and is therefore to all intents and purposes a citizen of the country. It did therefore seem to him no very great stretch of what he understood to be true Democratic principles to allow him a voice in the election of officers who were to rule over him.

He did know that many, very many excellent men were anxious for this question to be distinctly submitted to the people,

in order that a full and fair expression of public opinion might be had. And, if a majority was in favor of granting the privilege, let the negro vote; but, if they were against it, then let the right be refused, and no one could justly complain that they had not been fairly and equitably treated. It would greatly tend to quiet excitement on this question and go far, in his opinion, towards putting it forever at rest.

He would further take this occasion to say that neither the men of whom he spoke nor himself had anything to do with the political abolitionists, or with their exclusion or distinct organization and objects. He simply desired to do an act of justice and give the negro a fair chance before a majority of all the people. And this he considered the very essence of democracy. He did therefore hope the amendment would prevail.—*Express,* Oct. 27, 1846.

Mr. Burchard obtained the floor, and notwithstanding there were several other claimants, he held it. In offering his substitute he had remained silent during the discussion and heard many arguments against the exclusion of that one word "white" in the report. He had not said much during the discussion for the reason that he had intended to wait for his own time to [say] what he had to say, and he thought the time had arrived. Mr. Burchard then went into an able discussion of the principle of free suffrage, during which he was interrupted by Marshall M. Strong, who raised a question of order to prevent his reading some remarks from written documents. The convention sustained Mr. Burchard and he proceeded, as follows:

In presenting the report which I have had the honor to lay before this convention I have sought, as was my duty as well as my feelings to do, to present an article for your consideration founded on the broadest principles of right: a principle as broad and as comprehensive as the declaration which gave us birth as a nation, and which has given us a distinctive character as a people. I have presented this report as embodying my views and sentiments of what should be the organic law of the state of Wisconsin on the subject before us; and in now presenting it as a substitute for the report of the committee of

the whole I wish to bring this question to a direct vote in this convention. I speak for no party. I am not the mouthpiece of any sect or body of people. On my shoulders rests the responsibility, and I am willing to be tried by it before the bar of my constituents. By the resolutions passed at the convention from which I received my nomination, I am bound to use my exertions to place all men, without distinction, so far as political action can subserve this end, upon an equality. And I should do injustice to myself did I not say that this is a cheerful duty; for believing as I do that this report and the sentiments I may utter are founded on principles as truthful and as eternal as the throne of the Almighty I can anticipate, if not in my day, the final triumph of this, the only principle upon which the structure of a true republic can rest.

The first principle laid down in this report is that no distinction of color shall be made as a qualification for electors. I am aware of the degraded state in which chains have placed the African race in this country. I am aware of the public sentiment that has borne down with a heavier hand that portion of our fellow citizens. I know that there are difficulties in the way of creating political equality. I know that social equality, so long at least as a part of the race is in bondage, can not be enjoyed; and I am not the advocate of such equality, which I also know is scarcely to be looked for and repugnant to the feelings of men and to the economy of divine providence. I know, too, that the action of all constitutional and legislative bodies, with a few exceptions, stands out as precedents against this equality of political rights; and I am not disposed to question but that the sentiment of the people has heretofore sustained these provisions which have made color a disqualification to the citizen. But while I am free to make all these admissions, I am bound to present the other side of the question and prove first that the sentiment that "all men are born free and equal" is a just and right principle and a principle upon which the spirit of the age and the mass of mind are acting. Second, that the negro has rights as sacred and as dear as any other race; and third, that these rights can only be secured by placing in his hands the instrument of defense—the

ballot—which is provided by our institutions as the safeguard of political rights.

That "all men are born free and equal" is an abstract proposition, self-evident, and requires no more proof than that we exist, or that we possess the common attributes of mankind. If proof was necessary, no stronger or more positive evidence could be given than the very fact that upon this as a basis every effort to ameliorate the condition of man rests. We live, as has been often repeated in this hall, in an age of progressive democracy, an age whose characteristic is a spirit that breaks over the barriers and superstitions of the past and looks through the disguises of rank and nation to a common nature coming from an impartial God. In its political effects it discards the prerogative of a few to govern and looks to the rights of all. And whether you deem it practicable or not, you, who prattle about democracy, this spirit is opening a grand law of humanity more comprehensive than all others, that looks farther than the skin to say who shall have rights and who shall be maintained in the free enjoyment of what the God of nature has given them. You cannot guide this tendency of the age to sympathize alone with the serfs of Europe and the barbarism of Asia and leave untouched and unnoticed those in our midst who suffer either from the oppression of laws or for want of their protection. Neither can you teach the democracy that progresses in its principles to elevate the great mass of the people to leave uncared for any portion of our citizens, whatever their condition, or however much they may be degraded. That negroes have rights—a right to live on our soil—a right to progress in knowledge, virtue, and happiness—a right to exercise the powers and affections of men—I know not how many of this convention will question. But from the very circumstances under which they are found amongst us, they are an object of our sympathy as well as of our justice. Originally forced from their homes, their descendants who have freed themselves claim but the common heritage which the government of the soil on which they were born guarantees, professedly, to every citizen. Born among us, with the same destiny—the claims of a common humanity—these give them rights that demand the respect of

the people and the protection of government. In giving up to the state the first principles of government, what is returned for the protection of individual rights? Laws—laws that are made, altered, or repealed through the ballot box. The ballot is the only means, the only instrument, through which a security for the present and redress for the wrongs of the past can be obtained. Now, if they are thus situated, with the same aspirations as other men—if they have rights, and the protection of rights is law, and law is made through the ballot box, and in no other way, upon what ground do the opponents of granting them a right to vote rest their argument? Is there any? There is none, founded either in justice, right, or humanity. Because a man is born with a dark skin, he is forever to be disfranchised! This is a terrible, damnable doctrine, and as false as it is terrible. It is a doctrine that will not stand the scrutiny of the spirit of the age; neither will its apologists stand with clean hands at a tribunal where there is no respect of persons.

The extension of the right of suffrage to the blacks is not unprecedented; it is not a new idea. We have examples in the states of New Hampshire, Massachusetts, and Vermont that present an argument against which the finespun theories, or sophistry, or bickerings of politicians can have no effect. Its practical workings have been tested, and a voice comes up to us from those states and says it is both beneficial to the black and practicable to the whites. It is removing a barrier against the progress of a race which the conventional laws of nations degraded, and made them goods and chattels for the avarice of the human heart. It proves that there is nothing to be feared, as some would like to make themselves believe, from an influx of the black population. It proves that they are good, law-abiding inhabitants. It proves that they are capable of enjoying and rightly using the privileges of citizens. It proves that a portion of our citizens, at least, regard them as men—regard them as citizens—and are willing to place in their hands the same means to secure their rights as is enjoyed by any portion of the people.

Another argument which I would present is that taxable property is entitled to its representation at the ballot box. Upon this principle the state of New York and some of the other states have acted and granted to the negro the right to vote, with a certain property qualification. Now, wherever the negro has property that is taxable, it is admitted the clearest matter of justice and right that he be granted the same voice in the disposition and direction of such taxes as any other man. No equivalent can be returned for depriving a man of the elective franchise. Free him from all public duty, leave his property untaxed, and you give but an empty show for a right which every freeman holds as dear as life. Is it not wrong to deprive the negro of the right to vote and then as an equivalent tender to him exemption of his property from taxation? The first is a wrong, an injustice; the second is an insult to the feelings of a man. And if a man is entitled to vote because he has a little property, I put it to any member of this convention if he believes that a few dollars can make an intelligent mind or an honest heart. A property qualification is an old and exploded doctrine and is only maintained in the case of the negro by the duplicity of political demagogues. By taking the one step of giving to them the right to vote with this restriction, they have admitted all that is necessary in the argument. It is admitting that they are men; it is admitting that they have rights and that they should exercise the means to protect those rights. If a property qualification is right in the case of one portion of [a] community, it is equally just and right to place the other portion under the same restriction. And who in this hall will dare to advocate a property qualification to the white male citizen? You cannot dodge the issue; you must take one horn or the other of the dilemma. If you make a property qualification for one, you must for all; if you make free to one, you are bound to make free to all.

What shall be the action of this convention on this subject? The majority of its members claim to belong to the progressive democracy. Gentlemen, while you are arranging new plans and embodying principles that will better secure the ends of a republican government, remember that you should deal out

"equal and exact justice to all men." We are here not for the purpose of making a constitution for a day, but it is to affect our posterity for generations yet unborn. All that I wish is that you may embody a provision on the broadest principle of equality, a provision that will equally affect every inhabitant of the state; and until you can prove that it is a crime to be born with a colored skin, I appeal to your justice, to your humanity, to let this provision mark the progress of liberal views and democratic principles. Until you can prove that the colored race are not men, I shall lift my voice in defense of a principle which comes home to every reflecting mind and feeling heart. There is a moral responsibility resting upon every member of this house; and whenever his moral power can be brought to favor a progressive spirit that is raising all men to a stage of equality, it is a man's duty to lend a helping hand. No man ever regretted or ever will regret having cast his exertions in a cause that alleviates any part of the race of which he himself is a fellow. The African race have claims upon us, and we should not shrink from a responsibility which we morally and politically are bound to meet. Here is the broad principle which the wisdom of our fathers declared as the foundation of our institutions, and you must declare by the vote you give on this question whether you believe it true or whether you regard it as an absurdity and a lie.

Another principle in this report is that no distinction should be made between the foreigner who comes among us and the native-born citizen. I know not how this may be received by some of the members of this convention, but that it should be adopted into this constitution is my fullest belief. I am convinced of its practicability and justice, both in regard to its effect upon the foreigner and its bearings upon our own people. I do not propose to enter into a lengthy discussion at this late time on the merits of this part of the question, but, if this matter is made a point of further investigation, I shall claim the privilege of defending the position I have here taken. That the foreigner, by his very act of coming among us, has come to the deliberate conclusion that our institutions are founded in right, and that he comes with a determination to know and

understand the principles as well as to enjoy the blessings of our political organization is to me the only just and right conclusion. The invitation has gone out that this is a land for the oppressed of every nation under heaven, and a spirit of gratitude that ever flows in human bosoms prompts them to action, to exertion, to examination, in order that they might understand what should be their duty when they assume the responsibility of citizens who govern themselves. And we should meet them with a welcome hand and not with a coldness or with a stringent code to cripple any desire to make themselves citizens, so far as rights are concerned, in the land of their adoption. When they are prepared, or desire to exercise the elective franchise, after they have sworn allegiance, let them do it.

Another reason which has brought me to this conclusion is that designing men have made the restrictions, which some states have adopted, a source of political corruption. I charge no party or set of men; but the fact is beyond dispute and so notorious that it needs no proof. Let us cut off this source of evil by striking it at the roots. It is not injuring us. It does not place us any more under foreign influence. There is nothing to be feared from any results growing out of thus opening our political temple to the worshippers of all nations. And it is only carrying out the principle of equality in thus extending to every male inhabitant the privilege of exercising the right of voting. It is giving to the white and the black, the Indian and the foreigner the same privileges and the same inducements to become acquainted with and to enjoy whatever of good flows from our political institutions.

The first article of this report is based on one universal principle; and for this I desire to see it engrafted into the constitution without attaching any provisions against any man or class of men. It is a just principle because it is founded in right. It is right because it meets every being created in the image of God on an equality—an equality that should guide us in our relations with our fellow men—an equality which meets us at the first pulsations of being—an equality we are compelled to admit at the last flickerings of departing life.

As regards my course on this question, I have a word to say. When the proposition came up in committee of the whole to submit to the people this question of negro suffrage I opposed it: First, because it was not going as far as I thought this convention should go. Its members had just come from the people, and they knew, or should know, their views on all questions of as much importance as the one before us; and on them rested the duty of placing the ballot in every man's hand. Second, because I thought it an attempt to dodge the point at issue—to shrink from the responsibility of recording their votes on the journal of the convention, direct and isolated, whether the blacks should be allowed to vote or not. Men could hide their views behind the action of the committee of the whole, no record of which is kept; and by heading the main question by this proposition they could avoid the consequences of meeting the people and undergoing the scrutiny which the progress of liberal principles in after time will give to the actions of the present. I freely exempt the western members from this charge, who showed a manly bearing in their open hostility to the whole principle in any shape. But when members who represent a different constituency from their duplicity or want of moral courage seem determined to thwart all action and to prohibit all discussion on the question and seem wonderfully disturbed at the sentiments uttered, which they might have once entertained and had the boldness to assert—when these men, I say, seek to shrink from a responsibility which from their position they are bound to meet, I feel it my duty, not only as the immediate representative of my own constituency, but of the whole people, to use my greatest exertion to place these men in a right position before their countrymen, as well as to secure to the oppressed race, whose cause I have attempted to plead, the same privilege directly from the hands of this convention as is granted to any other class of men, and which every feeling of justice, right, and humanity calls loudly upon them to bestow.—*Express*, Oct. 27, 1846.

SUFFRAGE

(Remarks of Mr. Harkin, October 22, 1846)

MR. PRESIDENT: It is true I will admit that among the rude and unenlightened foreigners that the gentleman from Waukesha says are daily landing on our shores, as well as many who, like myself, have spent eighteen years of their lives on this soil consecrated to liberty, there are many who are ignorant of many things in relation to government. In this case, I count this ignorance a blessing. Sir, they cannot know who are the wirepullers in this convention. Nor are they acquainted with the tricks and chicanery of your scientific politicians, or the nice distinction of a "tadpole," a "retrogressive," or a "progressive" Democrat, that have so liberally been dealt out on this floor. Much less do they understand the mode and manner of securing a greater or less share of the public stealings in and about this capitol. But, sir, they do know the good old Jeffersonian progressive democracy and all the elements and fundamental principles of a republican government. Does not the great commercial intercourse of the two worlds, with the aid of steam and the speed of lightning, and that powerful engine, the press, which will spread in less than thirty days the discussions of this very body through every village and hamlet of western Europe, to be criticized by the Tory press of that land, and should the gentleman's amendment become a law, to be thrown in your teeth as a burlesque on the democracy of this country—do not these facts tell you they are not ignorant of American institutions? Imagine if you can a tourist from this country discoursing on this asylum of the oppressed. Here, he says, we have no kings, no counts, no ecclesiastical dominion; the poor man is not humbled by paying feudal service to a lord, nor harassed by tithes or game laws. No, sir, they are the owners of the soil they till, and from Maine to the Rio Grande we bask in the sunshine of liberty and dwell in peace under our own vine and fig tree. In my youthful days with heartfelt rapture I listened to this strain. It was my proud privilege to gaze on the humble cottage where a Montgomery was born, and

while a pulsation remains in my heart, and love of country warms with patriotic emotion my breast, can I for one moment forget the soul-entrancing rapture with which I have listened to my aged sire as he dwelt on the noble deeds and heroic daring of a Montgomery and proudly claimed him as an Irishman? Deluded and ignorant as the gentleman thinks they may be, are such men unfitted to have a vote in a free and enlightened republic? But in order to satisfy the gentleman's scruples about the qualifications and ability of the politically benighted foreigners, I would recommend that all foreigners be instructed in the following political catechism:

Ques. What constitutes the integral of a nation's wealth?

Ans. Population.

Ques. What constitutes the keystone in the arch of our liberty?

Ans. The right of soil vested in the occupant.

Who were Steuben, Lafayette, Pulaski, Kosciuszko, and Montgomery? I answer they were foreigners. Was there any man then to be found in the halls of Congress or in any other council of this nation that dared to stand up and demand that these foreign soldiers, who came here to deal death and destruction in the ranks of our tyrants, should be five years in the country? Who was Benedict Arnold? A native American! Was there any foreigner in the Hartford Convention? No, sir. They were in heart and soul native Americans! Oh, little did I think that the idolized flag of our country, which so proudly waves over us with its bright constellation of stars, was to have all its stars monopolized by the natives, while its stripes are to be dealt out to the foreigners!—*Argus,* Nov. 3, 1846.

ON SUBMITTING TO THE PEOPLE THE QUESTION OF NEGRO SUFFRAGE

(Remarks of Mr. Judd, October 22, 1846)

Mr. Judd said that before giving his vote he desired to say a few words, and a few only, for that neither his inclination nor the state of his health would permit him to retain his posi-

tion on the floor but for a few moments at farthest. He was glad the question was now presented in a plain and distinct form. He should vote for the proposition as one, in his opinion, best calculated to meet the case, but he should do so for no such reasons as those stated by the gentleman from Waukesha (Mr. Randall) yesterday, when in committee of the whole on this subject. He should vote for this proposition, simply and plainly, as the best practicable manner of disposing of a very exciting and troublesome question: It is true, sir, that the negro is not a white man, nor can we make him such; and he did not understand this proposition as an attempt to effect that object—but it is nevertheless true that he is here among us, speaks our language, and ours only; he knows no other country or government, he is protected by our laws, and made subject to them. He is therefore, to all intents and purposes a native-born citizen of the country. It did indeed seem to him under such circumstances that it required no great stretch of what he understood to be true Democratic doctrine to allow him a voice in the election of officers who were to rule over him.

He did know many, very many excellent men who were anxious for this question to be distinctly submitted to the people in order that a full and fair expression of public opinion might be had; and he for one was in favor of giving it that direction. If a majority of the white citizens was in favor of granting this privilege to the colored man, let him vote; but if they were against it, then let the right be refused and he was sure no one could justly complain that a fair opportunity had been denied for obtaining the privilege. The course would greatly tend to quiet all excitement upon this question and go far, very far, in his judgment, towards putting it forever at rest.

He would further take this occasion to say that for himself he had nothing to do with the political abolitionists nor with their distinct organizations or operations; nor did he entertain any of their peculiar notions on the subject of emancipation from slavery in other states—he eschewed the whole of them; but still he would do an act of justice to the colored man in our own territory, and that was all he contended for; and such was, as far as he had undertaken to say, the wish of those

whose opinions he desired to represent. All he asked and all he desired here was that even-handed justice and equity should be done to the negro as well as to the white man, and that a fair chance should be given to the former to have his claims passed upon by all the people. This he considered the very essence of true democracy. He did therefore hope the amendment would prevail.—*Argus,* Nov. 3, 1846.

(Messrs. Burchard, Parks, Harkin, and Judd successively addressed the convention, for whose remarks we have no room.)

Mr. Ryan said that the amendment now under consideration seemed designed to raise two questions, the power and the policy of adopting the first section of the article, as it there stood. The gentleman from Grant who offered the amendment (Mr. Burnett) and another gentleman from the same county, on his left (Mr. Bevans), had both expressed great doubts of our power to adopt the first section; while the gentleman from Grant, on his right (Mr. Barber) had gone into a detailed legal argument against the power. He (Mr. Ryan) proposed to examine that question of power, for it was idle to speak of the policy, if the power was doubtful. He would therefore proceed at once to the question of our right in this question, and then, without entering into the details of the article or the amendment, add a few remarks on the general principles which seemed to him to be involved in the question:

I assume the states of this Union, Mr. Chairman (said Mr. Ryan) to be sovereign states. This was once questioned; this was the debatable ground of the old Republican and Federal parties; but the judgment of reason and the verdict of mankind alike pronounced for the good old republican doctrine of states' rights; and well it is that it was so, for on the decision of that question were, in my judgment, staked the momentous human destinies committed to the charge of this age and this country. Sir, I will therefore assume this position and not argue it. The states of this Union are sovereign states, not the provinces of one overwhelming and overshadowing central sovereignty, but free states, independent and sovereign, each

in itself and by itself, as any in the civilized world, associated together in a confederacy of separate sovereignties for the common good, by a treaty which we call the Constitution of the United States. The government of this confederacy is a limited, delegated government. The states of the confederacy, like other sovereignties, by many other treaties, surrender by express stipulation certain of their rights of sovereignty to the keeping of the confederacy; what they do not surrender to the United States, what sovereign rights and powers they do not expressly restrain themselves of by the Constitution of the United States, they themselves retain. What sovereign powers they do not expressly delegate to the United States, the United States do not in anywise possess. The United States is, as I said, a delegated, limited government, having in itself no sovereign character, but exercising so much of the sovereign powers of the states as the states have committed to its charge, and none other; while the states are free, original, national sovereignties, possessing all the attributes of sovereignty, save such as they have thus delegated to the common confederacy for the common good by this common constitution which itself declares in terms "that all powers not delegated to the United States by this constitution nor prohibited by it to the states are reserved to the states respectively."

We of Wisconsin are not yet of this Union, but have an inherited and territorial right to enter it, and are here to assert that right. When Wisconsin becomes a state by the adoption of the constitution we are here to frame, she becomes a sovereignty, not a province as she is and has been, but a free, independent, national sovereignty. This is her aim in becoming a state; this is her right by becoming one. But she also becomes in the act a party to that treaty which we call the Constitution of the United States and surrenders by it just so much of her sovereignty as the states which made that treaty did by express terms surrender. When this instrument upon which we are engaged has been adopted by our people as their constitution, Wisconsin steps forth amongst the sovereignties of the earth with every power and attribute of sovereignty which she has not by this very act delegated to the confederacy of the states.

Let us then proceed to examine what and how much power on this subject she takes in her sovereign capacity; what and how much she surrenders by becoming a party to the Union.

The Constitution of the United States gives to Congress the power to pass uniform laws of naturalization, and this grant of power I admit to vest in Congress, while they continue to exercise it, the exclusive right of naturalization. It is argued by the gentleman on my right (Mr. Barber) that if we adopt the first section of this article, conferring the right of suffrage on aliens who have declared their intentions to become citizens and taken an oath of allegiance to the United States and this state, we are exercising a power of naturalization which we do not possess, and violating the Constitution of the United States. Sir, I deny that this is the exercise of any power of naturalization. Sir, I deny we are exercising any power delegated to the United States; and I assert that we are by the adoption of this provision in the simple and unquestionable exercise of a sovereign power which the states have never surrendered, and which almost every state has in one way or another continually exercised: the sovereign power of denization.

Common-law writers divide the people on the subject of citizenship into three classes: citizens or subjects, denizens, and aliens. I read from Blackstone's *Commentaries* that "the first and most obvious division of the people is into aliens and natural born subjects. Natural born subjects are such as are born within the dominions of the crown of England: that is within the ligeance, or, as it is generally called, the allegiance of the king; aliens, such as are born out of it. * * * A denizen is an alien born, but who has obtained, ex donatione regis, letters patent to make him an English subject; a high and incommunicable branch of the royal prerogative. A denizen is a kind of middle state between an alien and natural born subject and partakes of both of them. A denizen is not excused from paying the alien's duty."

Such is at this day and in this country the unquestionable division, on this subject of citizenship, of all who dwell amongst us; we are all of one of the three classes, and many in many of the states belong to each of the classes: citizens, denizens, or aliens.

Aliens are persons of foreign birth who have been admitted to no right of citizenship. Denizens are born aliens who are admitted by law to some rights, more or less, of citizenship, but who have not become citizens. Citizens are those who by birth or naturalization have inherited or acquired that character.

The term "citizen" has been defined by the gentleman at my side (Mr. Barber) to signify "a person, native or naturalized, who has the privileges of exercising the elective franchise, and of purchasing and holding real estate." Sir, I deny this definition utterly, and I deny, sir, that it is the definition, as I understood the gentleman from Grant to say, of any writer of authority.

Mr. J. A. Barber: The definition is not mine; it is Webster's.

Mr. Ryan: What Webster?

Mr. Barber: Webster's dictionary.

Mr. Ryan: Humbly and profoundly I make my bow to the gentleman from Grant and Noah Webster. Noah Webster! Why, sir, I hoped at least the gentleman's high authority was Daniel, though I would have wondered at a great lawyer using such a definition. Yet, still, I never thought to live to hear a full-grown, respectable lawyer, like my friend at my side, quote Webster's dictionary on a grave legal argument, as a grave legal authority. It argues not his poverty, but the poverty of his position on this question.

Sir, this definition is a total mistake. Citizenship, which is substituting the American for the European relation of subject, is that relation which subsists between the born inhabitant and the sovereignty under whose flag he is born; and which may be arbitrarily communicated by the process of naturalization to one of foreign birth. It involves the duty of allegiance on the part of the citizen, and the duty of protection on the part of the sovereignty. It may or may not carry with it the right of holding and transmitting real estate, which I take to be a conferred civil right; it may or may not carry with it the right of suffrage, which I take to be a conferred political right. To be sure, no man dare at this day seek to restrain

the privilege of holding realty; but that shows the force of a principle, not of a right. To be sure, no man at this day can claim communion with the spirit of our age and of our institutions, who would seek to restrain the privilege of suffrage; but that is because we yield to the teaching of a great political principle and confer the right upon all fitted for its exercise. It was conceded on all hands, on the discussion of another amendment to this first section, that the right of suffrage was a conferred or withheld franchise, and so I take it indubitably to be. Citizenship, sir, does not depend on any conferred right or franchise; it is an original and inevitable relation, as I endeavored to explain, of allegiance and protection. So much for Noah Webster and his legal definition.

In regard to the reception of aliens, all sovereignties possess two different and distinct powers—naturalization and denization. So distinct are these two attributes of sovereignty that in England they are exercised by different authorities under the constitution. The parliament naturalizes; the Crown confers denization. Naturalization adopts the alien and confers on him the full character and unreserved rights of citizenship. Denization refuses to adopt the alien, but admits him to some certain limited rights of citizenship. Naturalization is the higher, denization the lower power; both are the inherent and exclusive powers of sovereignty. I read again from Blackstone: "Naturalization cannot be performed but by act of parliament, for by this an alien is put exactly in the same state as if he has been born in the king's ligeance. Denization is ex donatione regis a branch of the royal prerogative. The right of making denizens is not exclusively vested in the king, for it may be exercised by parliament; but it is scarcely ever exercised by any but the royal power. Naturalization is not, as denization may be, merely for a time, but is absolutely forever."

Here then are two distinct and different powers of sovereignty, separately existing, separately exercised; and these two sovereign powers this state of Wisconsin acquires by becoming a state. Does she surrender either or both of them?

The power of naturalization she undoubtedly surrenders by becoming a party to the Union. She confers upon Congress the power and, I admit, the exclusive power, while united, of passing uniform laws of naturalization. The sovereign power of naturalization cannot be exercised by the state of Wisconsin.

But, sir, the other distinct and separate power of denization she never has and never will surrender. One proposition is as plain as the other. Nowhere does the Constitution of the United States delegate or restrain the exercise by the sovereign state of Wisconsin of this attribute of her sovereignty, this power of denization. The state of Wisconsin can confer upon aliens within her boundaries, and while within them, denization; and by this article she will do no more and no different.

The gentleman from Grant at my side (Mr. Barber) has said that the rights of denizenship consist in the holding and transmission of real estate. The proposition as a general proposition is not correct. True it is such are the rights conferred by English law upon English denizens. But those rights may be there lessened or enlarged without affecting the character of the denizen as such; and here in this Union various states may confer and have conferred upon their denizens various measures of right.

By the common law an alien cannot hold his realty. Blackstone says that "an alien may purchase lands or other estates, but not for his own use, for the king is thereupon entitled to them." This right is conferred by most of the states upon their denizens; the conferring of this right, by the very act, makes the alien a denizen. Some states confer this right absolutely, some upon terms. Other states confer upon denizens this and other rights; two, Michigan and Illinois, the right of elective suffrage amongst others. I had a passage marked in Kent's *Commentaries* to show this exercise of power by the states, as of their unsurrendered sovereign power; but I do not find the book on my desk.

Gentlemen argue that we make citizens of this state by this article; and that if we have power to do so, the citizens so made can carry this right of citizenship with them into other states, under the clause in the Constitution of the United States which

says "that the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states." And hence they argue that we are in fact assuming a power of naturalization, or as one gentleman said, "tinkering with the naturalization laws," and coming in conflict with an exclusive power of the United States. Sir, I deny both the premises and the conclusion.

I apprehend that this clause in question was substantially transferred from the old articles of confederation into the Constitution of the United States. Under the articles of confederation the states retained the power of naturalization as well as the power of denization. And as the articles of confederation contained a clause, the original as I take it of this clause in the Constitution of the United States whereby "the free inhabitants of each state were entitled to all the privileges and immunities of citizens in all the states," it followed that each state really possessed the power of naturalization in all the states; for the alien naturalized in one state upon a year's residence, moving into another state requiring five years' residence, carried his citizenship with him in defiance of the local law of the state into which he moved. This was the reason why the power of naturalization was by the Constitution of the United States surrendered, and most wisely surrendered, to Congress. Under the articles of confederation there was no such thing known as a citizen of the United States. Each citizen, native or naturalized, was a citizen of the state in which he dwelt. If he removed to another, he acquired under the provision I have quoted by the act of removal the character of a citizen of that other state while he dwelt within it—a sort of naturalization in itself. But under the Constitution of the United States all citizens are citizens of the United States. I take it that there is no longer, as a distinctive character, a citizen of a state. If a man be a native citizen, born in Maryland, or be naturalized in Maryland or in New York or in Illinois, he is not thereby a citizen of Maryland or New York or Illinois, but of the United States; he carries that character with him wherever he goes, in all his migrations; and hence I think the adoption of the old clause of the articles of confed-

eration under which all were citizens of the separate states into the constitution under which all are citizens of the United States was an unnecessary and null provision, of no practical effect, and an excrescence on that admirable instrument.

But give to that provision what effect we will, it in no way relates to denizens and has no influence on their rights or character as such; for we make denizens of our state, while remaining in it—not denizens of the United States. We clothe them with no character which they can carry with them across our boundaries; we confer upon them rights coextensive only with our territorial limits; and if an alien, whom we thus raise to the rights and dignity of a denizen, crosses our boundaries, ceases to be a dweller amongst us, and seeks in other states another home, he again becomes an alien. He was a denizen of Wisconsin; he loses that character by ceasing to be an inhabitant of Wisconsin; and we never made him a denizen of the United States, or of any state to which he may remove.

The right of suffrage, which by this article we propose to confer upon our denizens, on certain terms, we have power to confer or to withhold. We may make denizens with this right, or without it; the power is arbitrary, and we here representing the future sovereignty of Wisconsin have the full, absolute, and unrestrained power as we for our people may deem expedient to confer it or to withhold it.

Not only upon aliens, but upon citizens, may we here confer or withhold this right of suffrage. Gentlemen will see that suffrage is not citizenship, nor citizenship suffrage. We have power, unquestionable power, to confer this right upon citizens, as such and without limitation, or to withhold it from citizens as such, and confer it upon qualifications. The committee know my opinions of the propriety of doing this. But I am arguing of the power. Sir,we may—many states do—confer suffrage, not upon citizenship, but upon property or other qualifications. Sir, we not only may do this, but to some extent we do it; we refuse to the citizen under twenty-one years of age the right of suffrage; we refuse to the female citizen the right of suffrage; we refuse to all citizens the right of suffrage until they shall have dwelt a year within our state. And, sir, as this

is a franchise which we have power to limit to the citizen, so it is a franchise we may confer upon the denizen; the one proposition is as clear as the other, and indeed the one seems to prove the other.

I find on my desk the volume of Kent of which I before spoke, and I will now trouble the committee with a quotation of some length which applies more to a previous portion of my remarks, but which will show gentlemen that I am setting up no new or unsanctioned doctrine.

"The legislature of New York," says this great jurist, "and probably of many other of the states are in the practice of granting to particular aliens, by name, the privilege of holding real property; and by a permanent provision in New York aliens are enabled to take and hold lands in fee, and to sell, mortgage, and devise or lease the same, equally as if they were native citizens: Provided the party had previously taken an oath that he was a resident in the state and intends always to reside in the United States, and to become a citizen thereof as soon as he can become naturalized, and that he has taken the incipient measures required by law for the purpose. There are similar statute provisions in South Carolina, Indiana, Delaware, and Missouri; and in Louisiana, Pennsylvania, Maryland, Illinois, and Ohio the disability of aliens to take, hold, and transmit real property seems to be entirely removed."

And in a note the learned commentator refers to the act of South Carolina of 1799, prescribing the terms of denization: "In North Carolina and Vermont there is even a provision inserted in their constitution that every person of good character who comes into the state and takes an oath of allegiance may thereupon purchase and by other just means acquire, hold, and transfer land, and after one year's residence become entitled to most of the privileges of a natural born subject. These civil privileges conferred upon aliens by state authority are dictated by a just and liberal policy, but they must be taken to be strictly local, and until a foreigner is duly naturalized according to the act of Congress, he is not entitled in any of the states to any other privileges than those which the laws of that state allow to aliens. No other state is bound to admit,

nor would the United States admit, any alien to any privileges to which he is not entitled by treaty, or the laws of nations, or the laws of the United States or of the state in which he dwells. The article in the Constitution of the United States, declaring that citizens of each state were entitled to all the privileges and immunities of citizens in the several states, applies to natural born or duly naturalized citizens; and, if they remove from one state to another, they are entitled to the privileges that persons of the same description are entitled to in the state to which the removal is made and none other."

Sir, by this and many other passages of a similar character to be found in almost all commentaries on American law gentlemen will see that this thing which by this article we propose to do is no new thing, no unsanctioned thing, no unusual thing, no unauthorized thing. It is the simple exercise, in one form, of a power which almost all the states appear to exercise in some form.

But gentlemen express apprehensions that with this provision in our constitution Congress will refuse us admission into the Union. Refuse us, sir! Congress has no power; Congress has at least no right. Let me tell gentlemen that the state of Wisconsin, when she approaches the pale of the Union and asks admission within it, approaches it erect in sovereignty, a sovereign state; save in those powers whose exercise she voluntarily delegates to the general confederacy of herself and her sister states she stands forth in that act a state amongst states, supreme within herself, a sovereign of intact and virgin sovereignty. She demands entrance into the glorious sisterhood of states as her innate right, no longer creeping under tutelage, a province, but standing forth before the world clothed in her own sovereign attributes; and if Congress dare to say to her that there is yet another attribute of power to be surrendered before she can be permitted to enter—if Congress dare to exact at the door of the Union the toll of an unsurrendered, undelegated right of her supreme authority within herself—sir, I would say to Congress, "She will not enter: she will not bow her sovereignty in the dust and strip herself of her sovereign attributes as the price of admission; she will not

enter as submissive province; she will enter in her sovereign right, intact, unsullied, unsurrendered, or she will remain without forever. Better be as she has been, a warded territory, than disgrace that Union, a degraded and crippled sovereignty." Sir, Congress will not refuse our state.

Having detained the committee so long on the question of right, I will not long delay them on the question of policy. I will simply throw out some general views which I have gathered from history, as subjects of consideration, than myself delay the committee by entering into the consideration of them. And first, sir, let me congratulate the gentleman from Grant who offered this amendment (Mr. Burnett) and his friends on the liberality of their proposition which a few years ago would have been in advance of the general opinion on this subject and is now little behind it in principle. I have ever observed that political progress draws its opponents with it, who continually occupy the ground vacated by the friends of progress as they advance further on in their mission.

Sir, I believe that all modern civilization and all modern political amelioration is to be traced to the effects of that migratory propensity which God's providence implanted for his own wise ends in the heart of man. In modern times its earlier history is to be found in the arrayed and embattled descents of the barbarous hordes of the North upon the seats of the pagan civilization, in which desolation went before amelioration. Terrible as was the overturning of empires and the uprooting of institutions, these fearful and desolating migrations in overwhelming the ancient civilization founded the modern. They mixed the races of men, they mixed the habits of men, they mixed the arts of men,—all great things in the progress of human destinies.

In times yet more modern and amongst events yet more related to ourselves the migratory principle took a milder form and no longer guiding the embattled and desolating hosts it accompanied the peaceful emigrant and planted the first settlements upon our shores.

And when Europe, with its crowded and jostling millions of half famished serfs seemed, upon the very eve of a political

convulsion, to try man's right to man's earth and man's labor, to try conclusions between man and man's hereditary usurpers, and the wise ones of the earth held their breath in terrified anticipation of the struggle which promised to desolate the dense habitations of man's race and deluge the earth in man's blood the providence of the God of nations was wiser than the wisest ones of earth, and the migratory propensity he had planted in man's heart had been gradually gathering on our shores the outcasts of European exaction and European oppression, and in their yet peaceful settlements the first great act of the modern drama of history was to be played, and almost all its horrors averted. Yes, sir, this continent of ours was, as I religiously believe, foreordained to receive the overflowings of Europe's overcrowded and overgoverned millions; foreordained to be the asylum and resting place for ages to come of the migratory propensity; foreordained to receive and to mingle together a hundred races of man's blood, and the habits, arts, and industry of a hundred lands of man's old habitation; foreordained in these, and by these, to solve forever the problem of man's capacity for self-government. We talk of American character and the American race. Sir, there is strictly none such. The race is the mixture of all races of white blood, and for that very reason, in my judgment, far superior to any unmixed race of men; their character is gathered from the habits of all modern people, the best from each; the elements of the race and their character are all foreign; the compound result is all that is American. Such are the blessings of the migratory principle.

And we here in Wisconsin—the paradise of western civilization, the promised land of modern emigration—to what do we owe all our wealth, all our power, all our greatness—our very capacity and right to become a state? Sir, to emigration—to the working of God's law of migration. God gave a land full of all fertility, teeming with all capacity; but without civilized settlement it had as well been a barren waste, and He who made it implanted in the hearts of far-off millions of aliens the desire of removing to it; and they come. Sir, all our wealth comes from numbers, all our power from numbers; our right to sit

here and form a state constitution comes from numbers; and our numbers come from emigration. Think you, sir, that man's natural increase even in this teeming country would have made the two or three millions of the Revolution the nearly twenty millions of today? No sir; emigration did it—European emigration—to which we as much owe today's emigration from other states of this Union, as that from the European states themselves. Sir, Wisconsin owes all to emigration—foreign emigration—even to her very existence today as a civilized state.

And shall we resist our destiny, or foster it? Shall we check the principle to which we owe all, all to our very existence? Shall we invite emigration here by rewards, or discourage it by restrictions? Shall we invite it to Wisconsin, or turn it aside to more liberal states? And for what? For fear of emigration? The very same emigration which made us? And why? Is it because the old monarchies of the earth feared and still fear the migratory principle which is destined yet to overwhelm them all? Sir, migration has founded our whole system. Sir, it was well for the monarchs of the earth to fear emigration and the emigrant; it was well for them to resist the admission of man, as man, to exclude all except the born, hereditary idolaters of their royalties, all except the born, hereditary believers in their blasphemous usurpation of the rights of man, and to keep all men within the influence of inherited allegiance, the strong bigotry of birth. Sir, this was a fear well founded; but republics, what have they to fear? The deep, heart-felt, soul-absorbing love of the emigrant for the republican asylum of his life. This, sir, is what men may fear in emigration here, and fear it in men who seek this asylum through dangers and difficulties, with the one hope here to sit down, here invest their all of art, and industry, and hope, and life, here to live and here to die, here to plant their posterity forever—men to whom all earth offers no other hope, affords no other asylum.

And, sir, I may speak something of foreigners, who am myself of foreign birth, though I thank heaven these dozen years a citizen of the United States, and never hope to see another

land, never desire to owe another allegiance. Sir, if I may judge, there is no class of people amongst us who have a greater admiration of our institutions, a greater love of our country, who will work for her, pray for her, fight for her, die for her, with truer, readier allegiance than the great body of foreign emigrants—the men who perform the same part in the destinies of the West that your fathers did in the destinies of the East. And if you adopt this article, the allegiance you require as a condition of the suffrage you confer will be kept in true hearts and by strong arms. Sir, I will say of myself what I believe to be true of us all. There is no man here loves his native land better than I mine; few, I am bold to say, as well; for misfortune draws the ties of patriotic affection closer than Americans can know, and long may it be so. Sir, with all my love, all my ties, all my pride, all my hope for the land of my birth and of my fathers, all those feelings pale before the allegiance I have sworn and the love I have acquired and which has grown stronger in my heart with years and experience for the land which received me an emigrant and adopted me a citizen; and were my native land, against all hope, once more free, and stood she forth amongst the nations, in the language of her own inspired son—redeemed, regenerated, disenthralled—I would exult as man cannot often exult; but my allegiance of duty and of love is here, and I would never, not even then, be tempted to change it.

Such, sir, is the love of the great body of foreign emigrants here; and it tells well for them and for the institutions of the country that such an attachment is engendered by human institutions and finds a fruitful growth in the hearts of all who seek and find an asylum under those institutions; and long may it continue so.

The convention adjourned.—*Argus,* Oct. 27, 1846.

Friday, October 23, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read.

Mr. Reed presented the petition of M. J. Bovee asking to be allowed to contest the seat of Mr. Burchard, a member from Waukesha County, and moved that the said petition be referred to a select committee of five. Wm. R. Smith moved to amend the motion by adding, "and that said committee have power to send for persons and papers."

Mr. Burnett moved to amend the amendment by striking out all after the word ["and"] and inserting "that said committee have power to examine under oath any competent witnesses, or to examine any other legal evidence that may be produced by either of the parties," which was agreed to. And a division having been called for, there were 46 in the affirmative and 18 in the negative.

Moses M. Strong moved to amend by inserting as follows: "And that said committee, before they act upon the petition, give to Chas. Burchard, whose seat is contested, fair opportunity to contest the fact alleged in the petition of Mathias J. Bovee," which was agreed to. The motion as amended was then agreed to.

W. R. Smith moved to amend the amendment by adding "and the committee shall have power to send for persons and papers." He thought it a strange mode of precedure on the part of the petitioner to wait until the convention had been in session near three weeks, before presenting his claims. He also adverted to the novel character of the petitioner, which he viewed in this light: "That the petitioner had received fewer votes than the member who now occupied the seat, and he wished the convention to inquire into the reason why he had not received as many votes as his colleagues on the same ticket."

Mr. Burnett then offered an amendment to General Smith's amendment, to the effect that the interested parties should be responsible for the costs of obtaining evidence in the case.

W. R. Smith opposed this amendment as unjust to Mr. Burchard, as he had duly presented his credentials in the same manner as every other member of the convention, and had been admitted to the seat which a new claimant now appeared to oust him from.

The question was put on Mr. Burnett's amendment, and it was carried. The question then recurred upon General Smith's amendment as amended, which was also carried.—*Express,* Oct. 27, 1846.

The Speaker announced the appointment of the following committee to whom said petition was referred, to wit: Messrs. Burnett, Wm. R. Smith, Burt, Parkinson, and Brace.

Leave of absence was asked for and granted as follows:

By Asa Kinne for Mr. Cooper; by Wm. R. Smith for Mr. Goodsell; by Mr. Baker for Sewall Smith and Topping; by Moses M. Strong for himself.

Mr. Prentiss, from the committee on the act of Congress for the admission of the state, reported No. 11, "Article relative to the act of Congress for the admission of the state."

"The committee on the act of Congress for the admission of the state respectfully report to the convention, for its adoption, the following article:

"Section 1. The propositions of the Congress of the United States as made and contained in their act of the sixth day of August one thousand eight hundred and forty-six, entitled 'An Act to enable the people of Wisconsin Territory to form a constitution and state government, and for the admission of such state into the Union,' are hereby accepted, ratified, and confirmed; *Provided,* nevertheless, That nothing in this constitution or in the act of Congress aforesaid shall in any manner prejudice or affect the right of the state of Wisconsin to 500,000 acres of land granted to said state, and to be hereafter selected and located by and under the act of Congress of the United States, approved September fourth, one thousand eight hundred and forty-one.

"Section 2. The state shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to bona fide purchasers thereof; and no tax shall be imposed on land the property of the United States; and in no case shall nonresident proprietors be taxed higher than residents.

THEODORE PRENTISS
J. M. BABCOCK
V. M. WILLARD
JAMES CHAMBERLAIN
PITTS ELLIS,
Committee"

Which was read the first and second times, referred to the committee of the whole, and ordered printed.

Resolutions were introduced and read as follows, to wit:

By Mr. Chase, "*Resolved,* That it is expedient for this convention to limit the amount of real estate which any person may own and hold within the state of Wisconsin."

By Mr. Burnside, "*Resolved,* That a committee of five be appointed to take into consideration the propriety of reporting an article to be engrafted in the constitution, to the effect that citizens of the state of Wisconsin shall not be compelled to do military duty until they shall have attained their majority."

Moses M. Strong moved a call of the convention, which was ordered, and the following members reported absent, to wit: Messrs. Chamberlain, Dickinson, Gilmore, Hill, Inman, Prentiss, and Sewall Smith.

Mr. Judd moved that all further proceedings under the call be dispensed with, which was agreed to.

The unfinished business of yesterday, it being the report of the committee of the whole on No. 2, "Article on suffrage and the elective franchise," was then taken up.

The question having been put on the adoption of the amendment offered by Mr. Burchard, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 12, negative 91; for the vote see Appendix I, roll call 31].

Mr. Baker said he was personally in favor of free suffrage, but as he well knew that the majority of his constituency were opposed to it felt it his duty to vote against it here although he should have voted for it at the ballot box.

Messrs. Granger and Beall first voted in the affirmative, but afterwards obtained leave to change their votes, which they said had been given under a misapprehension of the question. Here there was something said on the other side of the house about "crawfishing."—*Express,* Oct. 27, 1846.

A. Hyatt Smith moved to amend the report by inserting in the first section thereof between the words "taken" and "and" in the ninth line the words "before any officer authorized to administer oaths," which was agreed to.

Mr. Bennett moved to amend the said report by striking out all of section first to the word "election," and inserting:

"Section 1. Every white male citizen of the age of twenty-one years and upwards who shall have resided in the state three months next preceding any election, and all [every] white male persons [person] who shall be of lawful age, and who shall have declared his intention to become a citizen in conformity with the laws of Congress regulating the subject of naturalization, and shall have taken and filed in any court of record in this state or in the office of the clerk thereof an oath to support the Constitution of the United States and of this state, and who shall have resided in the state twelve months next preceding any election."

And the question having been put on said amendment, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 14, negative 83; for the vote see Appendix I, roll call 32].

Horace Chase moved to amend the report by striking out the first section and inserting: "Section 1. Every white male inhabitant of this state of the full age of twenty-one years who shall have been a resident of this state six months and of the county in which he claims his vote ten days before the election shall be entitled to vote for all officers that now are or hereafter may be elective by the people, by taking the following oath or affirmation: 'You solemnly swear (or affirm) that you will support the Constitution of the United States and of this state.' "

Mr. Strong called for the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The President stated that under the rules the question would be on the adoption of the amendment offered by Mr. Chase. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 10, negative 88; for the vote see Appendix I, roll call 33].

The report of the committee as amended was then adopted.

The question having been put on ordering the said article to be engrossed for a third reading, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 80, negative 21; for the vote see Appendix I, roll call 34].

Moses M. Strong moved that the convention adjourn until Monday morning next at ten o'clock. Mr. Baird moved to amend the motion by striking out the words "Monday morning next at ten o'clock" and inserting "until two o'clock P. M." And the question having been put, it was decided in the negative. And a division having been called for, there were 32 in the affirmative and 49 in the negative.

Mr. Hunkins moved that the convention adjourn, which was [dis] agreed to. And a division having been called for, there were 28 in the affirmative, negative not counted.

The question then recurred on the motion of Moses M. Strong. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 53, negative 48; for the vote see Appendix I, roll call 35].

o'clock A. M.

So the convention adjourned until Monday morning next, at ten

So the convention stood adjourned to Monday morning.

(The alleged cause for this unnecessary waste of time and public money was to allow the superintendent to perfect some

alteration in the room—this was the hanging of two lamps—which is now—three o'clock P. M.—completed; the true cause, however, was well known to be that of allowing the ruling member from Iowa to visit his constituents.)—*Express,* Oct. 27, 1846.

MONDAY, OCTOBER 26, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read.

Leave of absence was asked for and granted as follows: By Mr. Bevans for Mr. Burnett; by Mr. Bevans for Mr. Bell; by Mr. Burnside for Mr. White; by Mr. Ryan for Mr. Bennett; by Mr. Rankin for Mr. Geo. Hyer; by Mr. Parkinson for Mr. Madden; by Mr. Warren Chase for Mr. John M. Babcock.

Warren Chase presented a petition of Jacob LyBrand asking that an article be engrafted in the constitution allowing all persons, without distinction of color, sex, or nation, to exercise the elective franchise, and recognizing all the inhabitants of the state of Wisconsin of a certain age on a perfect equality, which on his motion was laid on the table.

Mr. Crawford, from the select committee to which was referred the resolution to abolish the office of justice of the peace, reported, "that it is inexpedient to abolish justices' courts at the present time." The said report was accepted.

Mr. Baird, from the committee on organization and officers of counties and towns, and their power and duties, reported No. 12, "Article on organization and officers of counties and towns, and their power[s] and duties."

"The committee on organization and officers of counties and towns, and their powers and duties report the following article:

"Section 1. There shall be but one system of town and county government, which shall be uniform as near as practicable throughout the state.

"Section 2. Sheriffs, clerks of the circuit courts, and clerks of the county boards, registers of deeds, coroners, and district attorneys shall be chosen by the electors of the respective counties once in every two years and as often as vacancies shall happen. Sheriffs may be required by law to renew their security from time to time, and upon neglect or refusal to give such new security their offices shall be deemed vacant. They shall hold no other office during the term for which they were elected and shall be ineligible for the next two years after the termination of their offices.

"Section 3. All county or township officers whose election or appointment is not provided for by this constitution shall be elected by the electors of the respective counties and towns or appointed by the county or township boards or other county authorities, as the legislature shall direct.

"Section 4. The legislature shall provide for filling vacancies in office, and, in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than

the next succeeding annual election after the happening of such vacancy.

"Section 5. The duration of all offices not provided for by this constitution may be declared by law, and if not so declared shall be held during the pleasure of the authority making the appointment.

"Section 6. Provision shall be made by law for the removal for misconduct or malversation in office of county officers and for supplying vacancies created by such removal; and the legislature may declare the cases in which any office shall be deemed vacant, where no other provision is made for that purpose in this constitution.

"Section 7. The legislature of the state shall have power to alter the boundaries of the several counties and townships now laid off and to lay off new ones, as well out of the counties already established, as out of the other territory within the boundaries of the state.

HENRY S. BAIRD, Chairman"

Which was read the first and second times, referred to the committee of the whole, and ordered to be printed.

Marshall M. Strong, from the committee on engrossment, reported as correctly engrossed, No. 2, "Article on suffrage and the elective franchise."

Mr. Beall introduced the following resolution, which was read, to wit: "*Resolved,* no member shall be allowed to speak longer than thirty minutes upon any question, either in convention or in committee of the whole."

Mr. Randall introduced the following resolution, which was read, to wit: "*Resolved,* That at the next general election and at the same time when the votes of the electors shall be taken for the adoption or rejection of this constitution an additional section in the following words, viz., 'All colored male citizens possessing the qualifications required by the first section of the article on suffrage and the elective franchise shall have the right to vote for all officers that now are or hereafter may be elective by the people, after the adoption of this constitution,' shall be submitted to the electors of this state for adoption or rejection in the form following, to wit:

" 'A separate ballot may be given by every person having the right to vote for the adoption of this constitution, to be deposited in a separate box. Upon the ballots given for the adoption of the said separate amendment shall be written or printed, or partly written and partly printed, the words "Equal suffrage to colored persons?—yes"; and upon the ballots given against the adoption of the said separate amendment, in like manner the words "Equal suffrage to colored persons?—No." And on such ballots shall be written or printed, or partly written and partly printed, the words, "Constitution suffrage," in such manner that such words shall appear on the outside of such ballot when folded.

" 'If at said election a majority of all the votes given for and against the said separate amendment shall contain the words "Equal suffrage to colored persons——Yes," then said separate amendment, after the adoption of this constitution, shall be a separate section of article ——

of this constitution, in full force and effect, anything contained in the constitution to the contrary notwithstanding.' ''

The resolution offered by Warren Chase on the twenty-third instant was taken up, when Warren Chase moved that the same be referred to a select committee of three, which was agreed to.

The President announced the appointment of the following committee to whom the said resolution was referred, to wit: Messrs. Warren Chase, Parsons, and Gilmore.

The resolution offered on the twenty-third instant by Mr. Burnside was taken up, when Mr. Judd moved that the same be referred to the committee of the whole having under charge the report of the committee on the militia, which was agreed to.

No. 2, ''Article on suffrage and the elective franchise,'' was then taken up and read the third time, when Mr. Judd moved that the said article be committed to a select committee of five. Mr. Dennis moved to amend the motion by adding, ''And that said committee be instructed to strike out the seventh, eighth, and ninth sections thereof and report the remainder of said article with none but verbal amendments.''

Mr. Bevans called for a division of the question. The President decided that the motion was divisible and would be first put on that portion instructing the committee to strike out the seventh, eighth, and ninth sections. And having been put, it was decided in the negative.

The question was then put on instructing the committee to report the remainder of the said articles with none but verbal amendments and was decided in the negative.

The question then recurred on the motion of Mr. Judd, and having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 34, negative 48; for the vote see Appendix I, roll call 36].

Mr. Magone moved to reconsider the vote on ordering the said article to be engrossed for its third reading.

Mr. Fitzgerald moved that the said motion be laid upon the table, which was decided in the affirmative. And a division having been called for, there were 39 in the affirmative and 26 in the negative.

Mr. Judd moved that the said article be recommitted to the committee of the whole. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 38, negative 40; for the vote see Appendix I, roll call 37].

The article on suffrage and elective franchise came next in order and underwent a third reading.

Mr. Magone moved to recommit the article to a committee of the whole for revision, as it was now very imperfectly punctuated.

Mr. Judd moved that the article be submitted to a select committee of five for careful revision and that they report upon the same. He said several amendments had been suggested to him, all of which he thought important, and his intention was to have the committee instructed to consider upon the article and report such amendments as they should deem necessary.

General Crawford looked upon it as a very important question and hoped it would be recommitted; there were many who objected to some of its clauses and had prepared amendments which they would have offered had they not been gagged off by the call for the previous question. He objected to some parts of it, but did not wish to be on the committee by any means, but only hoped that this matter should not be jammed through in such haste.

Mr. Bevans also objected to some features of the article, but considered it a compromise of opinions, and therefore not to be touched unless at a great expense of time and money by another protracted discussion; he opposed the recommittal to a select committee because of these effects.

Mr. Magone hoped the amendment would prevail; the time of the convention had been taken up by three or four members for the last two or three weeks, and he coincided in opinion with his colleague (General Crawford) that many had amendments to offer but had been prevented from placing them before the house by the call for the previous question.

Mr. Baird was opposed to the whole of it, but as he could perceive no beneficial result to be obtained by this recommittal, he opposed it. It would only tend to retard the proceedings of the convention four or five days by another long discussion without any material change in its main features, as those who had voted for it were a large majority of the house, who would probably vote for it again, and he was therefore opposed to the recommitment. While up he felt called upon to express his surprise that some of the ardent friends of the bill, who had zealously advocated and cordially supported it by their votes, were now in favor of recommitting it to a select committee.

The discussion was further continued until Mr. Bevans moved to amend by striking out the whole of section 1 of the article, upon which a vote was taken, and it was lost.

The question then recurred upon Mr. Judd's motion to recommit to a select committee, upon which the ayes and noes were called for and ordered; the vote stood ayes 34, noes, 48. So this motion likewise failed.—*Express,* Nov. 3, 1846.

ELECTIVE FRANCHISE

(Remarks of W. H. Clark, October 26, 1846)

Mr. President: It is with great reluctance that I arise at this late hour in the progress of the report, when the minds of members are mostly made up, to deliver my sentiments upon the subjects presented by it; nor would I now, were it not for the reason that upon my return home last week to my constituents I found great differences of opinion existing among them, some being strongly in favor of the report as it came from the chairman of the committee, and others strongly opposed to it. I therefore deem it my duty under existing circumstances to give the reasons of the "hope that is within me."

Sentiments have been strongly entertained by many men—men, too, whose opinions are entitled to the greatest consideration—that to confer the elective franchise upon the foreigner before he becomes a citizen of the United States is in conflict with the naturalization laws thereof, and Chancellor Kent is said to have expressed the opinion that the "right to vote is the first and highest attribute of citizenship." With all the respect which I entertain for the opinion of so distinguished a jurist, I think I have higher authority to the contrary than even him.

In the convention to form the constitution of Virginia were a host of men whose names are not unknown to fame, but which are intimately blended with the history and glory of their country; and last, though not least, in that convention, if I mistake not, there was one Thomas Jefferson—the great apostle of liberty, whose mantle of inspiration has fallen upon no successor—who is supposed to know as much of human rights as any other man, "and knowing dared maintain them" until he caused the hearts of his countrymen to rejoice and the tyrants

of Europe to tremble at the mention of his name. In the sixth section of the Virginia bill of rights are dispersed to the four winds of heaven all the crude and indigested notions which some members seem to entertain in regard to the elective franchise. It is there proclaimed that "All men who have sufficient evidence of a common interest in, and attachment to, the community have the right of suffrage"—sentiments well fortified by common sense, and [which] upon the most searching scrutiny will be found to be worthy of the high source from which they emanated. According to the definition of the right of suffrage as here laid down, the grand requisite, the sine qua non to the elective franchise is, not time, not citizenship, but "evidence of common interest in and attachment to the community." Citizenship may be one proof of the "common interest," etc., but is not the only evidence. The evidence may exist and be strong and incontrovertible before citizenship attaches.

Applying this test to the foreign population of the country, and what will be the result? Shall we exclude them from the pale of the elective franchise until they become citizens of the United States, or shall we open the doors of suffrage to them at once, and permit representation and taxation to commence and proceed hand in hand, and, pari passu, together? Have they the "sufficient evidence," etc.? I think they have, and that "evidence" consists partly in the fact that they left the monarchical countries of the old world and came hither to enjoy the protection of the American flag.

> Breathes there a man with soul so dead,
> Who never to himself hath said,
> This is my own, my native land?

That native land they left, and in leaving it severed, perhaps, the nearest and strongest ties that could link their happiness with earth—the ties of friendship, of kindred, and of "home." And why did they rupture those hallowed bonds—why bid a final adieu to their native country—why desert the paradise of home, with a fresh recollection of all those blessings which are wont to cluster around its fireside, and all the associations en-

shrined within their memory of it? They loved their country, but hated the tyranny which enthralled her. They had been prostrated beneath the heavy burden of taxation imposed upon them by a tyrannical government to swell the purses of an overbearing aristocracy. They had become disgusted with the glitter, the pomp, and pageantry of "stars, garters, and titles of nobility," and resolved to place the Atlantic ocean between them and the objects of their dislike. They had heard of America as the land where the "blessings of government, like the dews of heaven, descend alike upon the rich and the poor." They resolved to put themselves under the American constitution, which for half a century had sheltered the liberties of an empire and was yet amply competent to shelter them. They consequently came to America, paid their money into the treasury of the United States, and became tenants of a large portion of the public domain, and have therefore a common interest with and an attachment to the community and consequently the right of suffrage.

But does the evidence of the foreigner's attachment to this country repose here? He who asserts it I would ask to turn over the pages of American history—of our Revolutionary War, and of our second struggle for independence—and he will there find recorded that when the signers of the Declaration of Independence had launched the bark of their country on a tempestuous sea, bound for an unknown port—when the winds were high and the waves were rough—that, although she rode triumphant at first, she was soon dashed to and fro at the mercy of the waves—that, while floundering amid the rocks and struggling with the spirits of the storm, and the mountain waves were about to dash over her forever, a strong and powerful vessel came to her rescue and saved her. That vessel came from France; her commander was Lafayette. In the state of New York, on the banks of the Hudson at West Point, there stands a monument—the monument of Kosciuszko. His name and deeds are as familiar as household words to every member of this convention. I will not therefore pause to recount them. Suffice it to say of him that he was a foreigner by birth and devoted the best years of his life in defense of

the liberties which we now enjoy. Nor will I pause to recount the exploits of the many other distinguished foreigners whose aid contributed so highly to the success of the American and defeat of the British arms. Nor will I pursue the subject farther than barely to state that I have it from the lips of Colonel Johnson, who headed the forlorn hope at the battle of the Thames, that while many of his own countrymen who were always ready to encounter the enemy within the American lines yet hesitated from conscientious scruples when called upon to pursue them into Canada, that there was a class of men in his army who never faltered, either within or without the American lines, and that those men were Irishmen.

In regard to negro suffrage, I am in favor of withholding the elective franchise from the colored man for the same reason that I would confer it upon the foreign population. In the convention to remodel the constitution of North Carolina, in 1835, the question came up, not whether the right should be conferred upon the free negro, but whether it should be taken away (that class of people having enjoyed it from the time of the framing of that constitution down to 1835, more than half a century) and after a full and fair discussion by able advocates upon both sides it was decided by judges competent to judge of both the "law and the fact" that the privilege should be withdrawn. Consequently the franchise was not perpetuated; the policy died away. A distinguished member upon that floor made use of the following language: "I would ask if there is any solid ground for the belief that a free negro can have any permanent interest with and attachment to this country? He finds the door of office closed against him by the bars and bolts of public sentiment; he finds the circle of respectable society closed against him, let him conduct himself with as much propriety as he may; when his favorite candidate in an election prevails, it communicates no gratification to his breast, for the candidate will be a white man, and he knows full well that the white man eyes him with contempt. He cannot therefore feel any profound degree of interest in the preservation of the existing state of things, for he would fare as well under any other system. If a foreign power from abroad invade the

country, he would as soon take sides with that power as with the citizens of this state; for he would still remain a free man, whether he fell into the hands of the Irish, the French, the Scotch, or the Dutch."

It may be said that these sentiments are born in the wrong latitude—that they originated too far south to be good authority at the North. A recurrence to a single fact will be sufficient to dispel the illusion. As I have said, the free negro had enjoyed the elective franchise from the time of the formation of the Constitution of North Carolina down to 1835. There could have been no prejudice against them at the time the right was conferred, and is it reasonable to suppose that there could have been any at the time it was taken away? Besides, free negroes were a class of persons who had become released from bondage by a decree of the county court, under a law for that purpose in consequence of meritorious services rendered to the community, such as the saving of life and property from destruction, etc., etc. Therefore it would be unnatural to suppose that there could have been any serious degree of prejudice existing against them. I have another objection to the African race. A people who never have from the time of the commencement of the world down to the present time with a single exception exhibited sufficient energy of body or mind to assert their freedom are unsafe, unworthy depositories of political power. At one time we beheld them enlightened slaves. The arts and sciences were cradled on the banks of the Nile. The pyramids of Egypt overlook a land that could not have been in their origin a land of barbarism, but must have been the abode of the arts and sciences. But if they stand eternal monuments of the arts and sciences which adorned the age in which they had their origin, they also stand everlasting mementoes of the abject despotism which forced unwilling hands to pile those masses to the clouds, to commemorate the folly or glory of kings in their high ambition "to make things great that made them little." Here we beheld them enlightened slaves, and if any of them are in a different condition now, it is owing to no exertion of their own.

With the Anglo-Saxon race it is different. The last great improvement upon that stock who now reside within the limits of the United States (and to which I am proud to belong) inherit their freedom, and with it, as a necessary concomitant, the elective franchise, from their fathers. And by their own exertion, "by a vigilance that has never tired, and with an eye that has never slept," they have preserved entire the sacred legacy. It is the product of their fathers' labor in the field, and in the cabinet; it was nurtured in convulsion, and baptised in blood. Let us be careful, then, how we undervalue so priceless a gem—how we cast the pearl before a people who are incompetent to appreciate its value—who never have inherited it from their fathers—who never have bequeathed it to their sons—have never asserted their right to it upon any battle field—who never came to this country for their love of it—and never came into this hall to ask for it by a petition. But the principle of representation and taxation is a sacred principle, and if the withholding the elective franchise from them is a violation of it, let them not be taxed. If the protection which our laws afford them and their exemption from many burdens which the white population are obliged to bear is not a just quid pro quo for the amount of taxes they should pay, let them not be taxed.

But to carry out this principle and apply it in practice to them, and what will it amount to? Our treasury would remain about in statu quo for all any contributions which they would make to it. Have they generally real or personal estate to be taxed? Are they farmers, miners, or mechanics? Are the pursuits of the producing classes congenial with their tastes and dispositions? So far as my observation has extended, they copy after altogether another class. I mean nothing more nor nothing less (for, Mr. President, there can be nothing less) than the dandy of Broadway, the gilded butterfly, "the carpet knight"

> Whose highest boast is but to wear
> A lock of his fair lady's hair

and the sum total of whose whole existence amounts to—the quotient of nothing divided by six. These are the "illustrious predecessors in whose footsteps they follow"; these are the models which their taste induces them to imitate; and in many instances and many particulars the copy far surpasses the original; and neither the original nor the copy ought to be intrusted with the ballot. Over the former I have no power; but to the latter I can never consent to extend the elective franchise—not at least until a "change shall come over the spirit of my dream," and over the spirit of that people—when the great partition wall built by an Almighty hand to separate the races in their manners, habits, and character in their earthly hopes and earthly destinies shall be broken down—when the leopard shall change his spots and the Ethiopian not only the color of his skin but the conformation of his brain, the material of his intellect, and his skull shall become what Byron supposed the one to be which he found on the battle plain of Waterloo,

The dome of thought, the palace of the soul.'

—*Express,* Nov. 3, 1846.

Mr. Phelps moved that the further consideration of the said article be postponed until tomorrow, and that it be made the special order of the day for that day, and that in the meantime said article be printed. And the question having been put, it was decided in the affirmative. And a division having been called for, there were 45 in the affirmative, negative not counted.

Mr. Fitzgerald moved that the convention take a recess until two o'clock, P. M., which was agreed to.

TWO O'CLOCK, P. M.

No. 3, "Article on the eminent domain and property of the state," was taken up, when the convention resolved itself into committee of the whole for the consideration thereof, Mr. Magone in the chair, and after some time spent therein rose and by their chairman reported the same back with amendments.

Mr. Ryan moved to amend the fourth section reported by the committee by adding the following sections:

"Section 5. The acquisition of property by the state, not necessary to the legitimate objects of government, except such property as may be acquired by gift, grant, forfeiture, or escheat, shall be forever discouraged.

"Section 6. The expropriation of private property by the state shall be lawful only when necessary to the legitimate objects of government, and then only upon payment first made to the owners of its fair value to them, to be assessed by a jury of the vicinage, drawn in such manner and upon such reasonable notice to the owners as shall be provided by law.

"Section 7. The state shall derive no revenue, directly or indirectly, from property taken from individuals for public use."

And the question having been put, it was decided in the negative. And a division having been called for, there were 32 in the affirmative and 35 in the negative.

The question then recurred on the amendment offered by Mr. Ryan. And having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 23, negative 55; for the vote see Appendix I, roll call 38].

The convention resolved itself into committee of the whole. Mr. Magone was called to the chair and took up the report of the committee on the eminent domain and property of the state.

Mr. A. Hyatt Smith explained the report, and to cover additional ground offered as an amendment another section, which had suggested itself since the report was made—it was: "Section 4. The people of this state, in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of this state; and all lands the title to which shall fail, from a defect of heirs, shall revert, or escheat to the people."

The additional section was adopted.—*Express,* Nov. 3, 1846.

A discussion here arose in regard to the constructions that might be placed on these articles [those proposed by Ryan] in which Messrs. Ryan, Strong of Racine, Parks, Baker, A. H. Smith, Baird, and Tweedy participated.

Mr. Baker offered an amendment to the second section of the amendment, which was lost.

Mr. Tweedy moved to strike out "legitimate objects of government" and insert "public use." Adopted.

The several sections were then put severally and rejected.

Mr. Baker moved to strike out the second section. Lost.

W. R. Smith offered an amendment to strike out of the last clause of section 2 "*Provided* That," and insert "No law shall

be passed to take away or abridge the rights of owners to the riparian soil of land under water, unless in the same law provision is made for full compensation to such riparian owners; and the title to all islands which are now or may hereafter be found in any of the navigable waters within the boundaries of this state shall be vested in the state of Wisconsin."

Mr. Tweedy moved to strike out of Mr. Smith's amendment all after the word "riparian" where it occurs. Carried.

The amendment of Mr. Smith then prevailed.

The committee then arose and reported back the articles with the amendments when Mr. Ryan offered the amendment he had proposed in committee, and called for the ayes and noes, which were ordered, and resulted as follows: [ayes 23, noes 55].—*Democrat,* Oct. 31, 1846.

Mr. Judd moved that the convention adjourn. And the question having been put, it was decided in the affirmative. And a division having been called for, there were 51 in the affirmative, negative not counted. So the convention adjourned.

TUESDAY, OCTOBER 27, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Mr. Crawford introduced the following resolution, which was read, to wit: "*Resolved,* That all persons that had a legal right to vote in this territory, agreeable to an act entitled 'An Act in relation to the qualification of voters for state government and for the election of delegates to form a state constitution,' approved January 22, 1844, and amended February 8, 1845, shall be entitled to vote for the adoption of this constitution and at all elections thereafter in this state the same as citizens are entitled to vote at said election."

Mr. Goodell introduced the following resolution, which was read, to wit: "*Resolved,* That all members having speeches especially concocted for buncombe be requested to have them written out, printed, and furnished the members of this convention, instead of an oral infliction thereof."

The resolution offered by Mr. Beall on yesterday was taken up, when Mr. Magone moved to amend the said resolution by striking out the words, "or in committee of the whole." And the question having been put, it was decided in the negative. And a division having been called for, there were 12 in the affirmative and 31 in the negative.

Mr. Hunkins moved to amend the said resolution by striking out the words "thirty minutes" and inserting the words "one hour," which was disagreed to.

Mr. Hunkins then moved that the said resolution be laid on the table. And the question having been put, it was decided in the affirmative.

And a division having been called for, there were 35 in the affirmative and 32 in the negative.

The resolution introduced by Mr. Randall on yesterday was then taken up, when Mr. Noggle moved that the same be referred to the committee on suffrage and the elective franchise with instructions to report near the close of the session. Pending the question on said motion, Mr. Hicks moved that the same be laid on the table. And the question having been put, it was decided in the negative. And a division having been called for, there were 33 in the affirmative and 34 in the negative.

Mr. Randall moved to amend the motion by striking out all after the word "referred," and inserting the words "a select committee of seven."

Mr. Randall would prefer a select committee.

Mr. Judd said it was unusual to send a matter to a committee known to be opposed to it; and that was the case with the committee on suffrage.

Mr. Noggle thought the committee he had named the proper one and to which the subject properly belonged.

Mr. Ryan: This subject has once been before the convention and decided, and he thought it could not again come up.

The President: There is a parliamentary law to that effect but this is not the same proposition that has been passed on.

Mr. Parks had been voted down on several propositions, and this among the rest, and having been so voted down he should now vote to let the matter rest.—*Argus,* Nov. 3, 1846.

Pending the question thereon, Mr. Bevans moved that the further consideration of said resolution be postponed until the first Monday in January next. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 39, negative 45; for the vote see Appendix I, roll call 39].

Mr. Ryan moved that the further consideration thereof be postponed until Monday, November 10, and that it be made the special order of the day for that day, and that it be printed, which was agreed to.

Mr. Bevans moved to postpone the subject till the first day of January next, which motion was lost by ayes 39, noes 45.

Mr. Judd moved to refer the resolution to a select committee of seven.

Mr. Hackett should vote against all such motions, but hoped the convention would meet the question at once, on its merits.

Mr. Ryan moved to postpone the whole subject till the tenth of November next, and that it be made the special order of the day.

Mr. Hunkins hoped the resolution would be sent to a committee that it might be perfected.

Mr. Ryan asked Mr. Randall if he had not copied the proposition submitted to the people of New York by the late convention of that state.

Mr. Randall: I did.

Mr. Ryan: Then it does not need the aid of a committee to perfect it.

The motion to postpone to the tenth proximo prevailed.—*Argus,* Nov. 3, 1846.

Mr. Baker, from the committee on the organization and functions of the judiciary, reported, No. 13, "Article on the organization and functions of the judiciary."

"The committee to whom was referred the subject of the organization and functions of the judiciary respectfully report that they have applied themselves to the subject they have had in charge deeply impressed with the conviction that next to the existence of good laws nothing tends more to the stability and prosperity of a state than their impartial and efficient administration. The people will not long be content with a government where, however excellent the laws, they cannot avail themselves of their benefits. Despairing of justice in the constituted tribunals, they will seek it by such means as lie within their own reach, and the measure of their judgment will be the impulses of their own will. In order that a wise system of laws should be so administered as to produce the greatest good it is not only necessary that the judiciary should be able, impartial, and efficient, but it must also possess the confidence of the people.

"In drafting the plan of a judiciary, which the committee have the honor herewith to submit, they have kept constantly in view those great truths and have endeavored so to combine them in one system as to meet the matured views of this convention, and to realize the best hopes and wishes of the people. The leading features of the system proposed for adoption by the committee are briefly these:

"First, a supreme bench composed of three justices, distinct from the circuit judges.

"Second, five circuit courts, subject to increase or modification as the legislature shall deem expedient.

"Third, the union of law and equity powers in the judges of the supreme and circuit courts, reserving to the legislature the right to establish a distinct court of chancery whenever it shall be deemed expedient.

"Fourth, interchange of circuits by the circuit judges, so that no judge shall preside in the same circuit more than one year in five successive years; and

"Fifth, the election of the supreme and circuit judges by the people, the former by general ticket, the latter by districts.

"The necessity for a distinct tribunal of ultimate resort that shall be a limit to litigation, a uniform standard to determine what is the law and which shall regulate and control inferior courts is apparent to all. Whilst the organization of a supreme court on the nisi prius system, technically so called, has many excellencies which commend it to our favorable regard, yet in our peculiar circumstances, and with the sentiments prevailing in this community, there are very serious if not insuperable objections to its adoption, upon which the committee cannot now enlarge. One of the chief excellencies however of that system is secured in the plan submitted, by having the circuit judges interchange circuits, whilst the greatest objection to its adoption, the possibility of the judges sustaining the prior decisions of each other without regard to the true merits and strict right of the case, is effec-

tually avoided. With a supreme bench possessing appellate jurisdiction only, whose judges are placed above the power of temptation by ample and permanent salaries, whose tenure of office is sufficiently long to render them independent and yet not induce inactivity or make them forgetful of their responsibility, composed of the best legal talent in the state, as we may justly hope it will be, and clothed with a power and dignity which the voice of the people can alone impart—may we not look to it with pride, with confidence and respect as a tribunal admirably adapted to secure the highest ends of justice and the stability and permanence of our institutions. But the committee have not been unmindful of these truths that to render any judicial system popular and highly useful it must secure the services of the best men for judges, it must administer justice without delay, and as nearly as may be at every man's door. With this view, they have provided in the plan proposed for a judicial force sufficiently large for the prompt dispatch of all business which may arise in the several courts; they recommend salaries which, though not extravagant, are sufficiently liberal to secure the best legal talent, and they propose that a circuit court shall be held in each county at least twice, and the supreme court in each circuit at least once a year. Thus constituted, our judicial system will be simple and efficient, and we may therefore hope popular. County courts and side judges the majority of the committee conceive would with us prove a cumbrous machinery and useless appendage, unsuited to our condition and uncalled for by the wants and wishes of the people. They therefore propose the establishment of no other courts, except courts of probate and justices' courts, whose jurisdiction shall be extended to one hundred dollars; but they submit a provision allowing the legislature, if hereafter in the progress of society in culture and business they shall deem it expedient, to establish a distinct court of chancery. For the present, at least, they would not recommend its organization, as they conceive that law and equity powers may for a long time to come, if not permanently, be safely confided to the same judge. The committee have also deemed it expedient to submit, not as a necessary part of the plan proposed but as a distinct proposition worthy of consideration, the propriety of establishing by law a tariff of fees on all suits or process in the supreme and district courts, to be paid into the state treasury, and applied in part payment of the judges' salaries. The proposition is founded on the equitable principle that each man should pay individually for services rendered himself and not the public at large; besides it might in a measure tend to check a spirit of litigation. But it is unnecessary to enter into the details of the plan for organizing the judiciary contained in the report herewith submitted; if expedient they will commend themselves to the adoption of the convention; if otherwise, they will be rejected.

"But there is one feature in the judicial system proposed for adoption by a majority of the committee so prominent and important and upon which so decided a difference of opinion exists that it demands a more minute and extended examination. It is the election of the judges by the people. This principle lies at the foundation of the

whole superstructure, and it is of the first importance to ascertain whether it is sound and correct. It is conceded by all that government naturally resolves itself into the three branches, executive, legislative, and judicial, and that their appropriate spheres of action are so diverse that there is both a propriety and a necessity for keeping each not only distinct from but so far as possible entirely independent of the other. It is also an axiom of government in this country that the people are the source of all political power, and to them should their officers and rulers be responsible for the faithful discharge of their respective duties. But for the most part, whilst the different states of the Union have admitted the correctness of these principles in the organization of the executive and legislative branches of their governments, they have denied them in that of the judiciary. Whilst the people have been permitted to elect officers to fill the two former departments, they have been deprived of this right as to the latter. The great and most important privilege of choosing the men who were to sit in judgment upon their rights of property, their lives, and liberties is denied them and is exercised by the other two branches of government, separately or conjointly. Thus have two fundamental principles of our government been violated. The judicial power, a distinct coequal department, which should be wholly independent of the others, instead of emanating from the people, the true source of all political power, has been dependent for existence upon the executive or legislative will, or perhaps both. The necessary result, in a measure, must be the dependence of the judiciary upon one or both of the other branches of government and its independence of the people. And the reason why this system, so erroneous in theory, has not proved more injurious in practice is owing to the intelligence of the people and the integrity of our judges.

"The plan of appointing judges adopted in this country is plainly traceable to Great Britain. There, all judicial power is presumed to reside in the king; in theory, justice is administered in his presence, and as a consequence the judges are appointed by him. In adopting the common law with its many conceded excellencies, together with the forms and practice of England, in a measure, we have very naturally imbibed the doctrine that the judicial power should emanate from the executive instead of the people. Had our forefathers been as oppressed by this branch of government as they were by the executive and legislative powers of the mother country, is it not fairly to be presumed that they would have repudiated the principle of appointment of the judiciary and founded it as they did the others on the true republican basis, election by the people. But whatever of caution may have influenced the opinions of the great statesmen who laid the foundation of our government, unguided as they were by the lights of experience, shall we, after more than sixty years' experience of the happy workings of our institutions, shall we, in this day of progress and of light in political science, frame a constitution that shall sanction a principle so far behind the spirit of the age, so opposed to the genius of republican government as that of distrust of the ability of the people for self-government, a desire to save them from themselves?

"But an elective judiciary is not only in accordance with the theory and analogy of our government; it is in harmony with its spirit and genius. Confidence in the people and a belief in the political perfectability of man are the basis of our institutions. To elevate mankind you must confide in them. You must make them feel that they are something above the brute and the slave—that they have rights and powers, a capacity for improvement and self-government. You must inspire them with self-respect, a desire to better their condition, and awaken the soul to arise and assert the nobility which God stamped upon her, when he created man in His image. Every man should be made to feel that he is a citizen, a part of the state, and that a portion of its sovereignty resides in him. He should be treated by his government in the same manner that Infinite Wisdom deals with him as a distinct individual, and not part of the mass, as a free agent, responsible for his actions, and yet who can do as he will. This is the true theory of government; it emanated from the Deity and is founded in the nature and fitness of things; it ennobles man and elevates and betters his condition. Now it is proposed to carry out these principles in the election of our judiciary, as well as in the other departments of government. And why not? Are not the people as competent to choose in one case as the other, and are they not equally interested to make wise and judicious selections? Why prohibit the exercise of the elective franchise in a single department of government? If it be true that all power resides in and should flow from the people, it is true not only in part, but in whole. If false, let us discard the principle entirely; let us at once proclaim to the world that our political theory is a delusion; let us no longer seek to cherish in the hearts of the down-trodden and oppressed millions of Europe the fond hope of freedom and equal rights, a hope doomed to wither and perish like untimely fruit. But for ourselves we have no such fears. We believe that the electors of Wisconsin will judiciously exercise the right of suffrage, however liberally extended, and that they ought to exercise it in the selection of all their officers wherever practicable.

"It is objected that the candidates for judgeship, if elective, will be selected by irresponsible conventions as party men, and elected because nominated, irrespective of their merits. The last of these objections is untrue in fact and unsound in conclusion. It is founded on the presumed ignorance of the people of the character and qualifications of prominent men, on their supposed disregard of their own true interests, and would prove, if anything, that the people should be excluded from voting for every important officer of government. Admitting that conventions would select candidates with reference to their political faith, though this is by no means certain nor always even probable, the people would not therefore necessarily confirm the choice; especially would they not if unwisely made. The election of judges to administer the laws in the high tribunals of the state, who may sit in judgment on the rights, the lives, and liberties of each elector, on a day expressly set apart for that single object, is an act too solemn to admit of undue bias from the heat of partisan feeling or the efforts of demagogues.

"But, we ask, when have not politics controlled the appointment of judges selected by the executive? When has a partisan governor, and who is not such, nominated a judge of opposite politics? Is it objectionable that a convention fresh from the people, reflecting their will and wishes, with this single object in view, should make the nomination? How much more so, that a secret, irresponsible caucus, controlled by interested party leaders, should dictate, as it is well known is usually the case, who shall be the appointee? Are governors and senators so wise they cannot err, so firm and pure they may not be swayed by improper influences? Are there no partisan services to be rewarded, no favorites to elevate or rivals to crush, no other places of power or trust to which they aspire and hope to gain by the influence of their patronage? In short, will they be more honest, wise, or impartial in making the selection than the people themselves? The majority of the committee are forced to the conclusion that party spirit and improper influences will have less scope for exercise in the election than in the appointment of judges; and that the people will be more attached to a system so democratic in principle, and will more cheerfully acquiesce in the decisions of a court selected by themselves.

"Another objection to the elective mode is that the judges may be induced to render unjust decisions in order to secure a reëlection. This supposes the preëxistence of a weak and corrupt judge, that the parties interested are of opposite politics, or that one has very considerable and the other very little political influence, and that a decision is to be made not long before an election. An argument which requires the concurrence of so many improbabilities is not entitled to much weight. Nothing in this country would sooner seal the political doom of any judge, by all parties and every honest man, than the attempt to bend his decisions from the line of justice to make political capital. Neither would the mingling of judges in the strife of politics be tolerated by the people; their sense of propriety would revolt at the idea, and instead of securing the object aimed at they would ensure their own defeat. He alone can be a popular judge who is honest, impartial, decided, and fearless; who holds with a steady hand the scales of justice and will suffer no improper influences to approach them; whose judgment, though it may sometimes waver and tremble in doubt, ultimately points steadily to the pole of eternal truth and justice. Such a man the people appreciate, and him will they delight to honor. Can it be presumed then, that any judge could so far forget the propriety of his station, or what became his true interest, as to mingle in party politics or swerve his decisions for political considerations?

"It is said that our population is such, composed as it is of so large a proportion of foreigners, unacquainted with our language, our laws, and institutions, that it is not safe to trust the election of judges with the people. If this argument is worth anything it proves too much for it would exclude them from voting at all; and yet few, if any, propose to go thus far. The fact is, as to the formation of a constitution and state government for this territory, we have no foreigners; we are all fellow citizens, stand on common ground, and have equal

rights. And it is believed that a majority of the people of both foreign and native birth are in favor of an elective judiciary; and we are bound to regard and carry into effect the will of all alike. The European cannot say to the American, 'You have not equal rights with me'—nor the American to the European, 'I have superior rights to you.' We have assembled as the representatives of a people, gathered from nearly every state in the Union and from half the nations of Europe, with united voice to form a common constitution. No matter what star shone upon our birthplace, Wisconsin is our country and the cherished home of our adoption. Here we are all brethren and fellow countrymen, with equal rights and privileges, united by the ties of humanity, and bound to the same destiny.

"Nor need we fear on this subject the influence of foreign voters who may hereafter come among us. Who are these foreigners? Men who have severed the ties of country and kindred and friendship and home to seek in our own free land the rights which God has given them, but which the pride and tyranny of man has denied them in their native country. Men who have forever alienated themselves from the land of their birth and all its institutions, and have selected this as their future home and adopted country. They are amenable to the same laws with us, and must suffer equally with ourselves if corruptly administered. Are their rights and interests distinct from, or hostile to ours? Have they any inducement to select for judges incompetent or corrupt men? Why then fear the foreign vote? Let us away with such idle fears and unfounded prejudices.

"In every view of the subject in which the majority of the committee have been enabled to examine it, they are forced to the conclusion that the election of judges is preferable to the old mode of appointment. It is not a novel scheme now for the first time sought to be engrafted into constitutional law. It has been successfully tried to its full extent in the state of Mississippi, and partially in Michigan; it has been adopted as to circuit judges in the new constitutions of Missouri and Iowa, and has finally, after long and able discussion and mature reflection, been sanctioned by the late constitutional convention of the state of New York. With these lights to guide us—when it is in accordance with the theory and spirit of our institutions, when every progressive movement in the science of government for the last fifty years has been made by wresting power from the few and vesting it in its true repository, the many, when the happiest signs of the times are the tendency to decentralize and distribute political power, when every day's experience teaches that the whole civilized world is on the advance to a higher, a more equal and happier state of social and political organization—need we fear? Shall we hesitate and endeavor to check to the extent of our ability the onward movement of the age by denying to the electors of Wisconsin the right to elect their own judges?

"In conclusion, the majority of the committee would remark that they submit their report with deference, sensible that the opinions of the minority are entitled to much weight and respect. They have

applied themselves to the work they have had in charge with fidelity and singleness of purpose, and if they have erred, it may safely be confided to the wisdom of this convention to determine what is right. The committee cannot but express the hope that however in our deliberations we may honestly differ in our opinion our labors, tempered with the spirit of conciliation and wisdom, may so result that when on the day which shall usher in our political existence as a state the sun robed in his splendors issues from the chambers of the mighty Michigan he will look upon a free, prosperous, and happy people, gathered from all nations but forming one great brotherhood, with a constitution that shall assert to its utmost limit the rights and the dignity of man, and under which we shall become a great and happy people.

"Respectfully submitted,

C. M. Baker, Chairman."

The committee on the organization and functions of the judiciary report the following article:

"Section 1. The court for the trial of impeachments shall be composed of the senate and the judges of the supreme court, or of the major part of them. The house of representatives shall have the power of impeaching all civil officers of this state for corrupt conduct in office or for crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. On the trial of an impeachment against the governor the lieutenant governor shall not act as a member of the court. No judicial officer shall exercise his office after he shall have been impeached, until his acquittal. Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold any office of honor, profit, or trust under this state; but the party impeached shall be liable to indictment, trial, and punishment according to law.

"Section 2. The judicial power of this state, both as to matters of law and equity, shall be vested in a supreme court, circuit courts, courts of probate, and in justices of the peace. The legislature may also vest such jurisdiction as shall be deemed necessary in municipal courts; and shall have power to organize and establish a separate court or courts of chancery; and when established provision shall be made by law for the election of a chancellor, who shall exercise chancery powers and jurisdiction, and thereafter the supreme and circuit courts shall not exercise chancery powers, except in such manner and under such restrictions as shall be prescribed by law.

"Section 3. The supreme court, except in cases otherwise provided by this constitution, shall have appellate jurisdiction only, which shall be coextensive with the state; but in no case removed to the supreme court shall a trial by jury be allowed in said court.

"The supreme court shall have a general superintending control over all inferior courts; it shall have power to issue writs of habeas

corpus, mandamus, prohibition, quo warranto, certiorari, and other original remedial writs, and to hear and determine the same.

"Section 4. The supreme court shall consist of one chief justice and two associate justices, any two of whom shall constitute a quorum, and the concurrence of two of said judges shall be necessary to a decision. The judges of the supreme court shall be chosen by the qualified electors of the state and shall hold their office for the term of six years, and until their successors are elected and qualified.

"Section 5. The state shall be divided into five judicial circuits to be composed as follows: The first circuit shall comprise the counties of Racine, Walworth, Rock, and Green; the second circuit, the counties of Milwaukee, Waukesha, Jefferson, and Dane; the third circuit, the counties of Washington, Dodge, Columbia, Marquette, Sauk, and Portage; the fourth circuit, the counties of Brown, Manitowoc, Sheboygan, Fond du Lac, Winnebago, and Calumet; and the fifth circuit shall comprise the counties of Lafayette, Montgomery, Grant, Crawford, and Richland.

"Section 6. The legislature may alter, increase, or diminish the number of circuits, making them as compact and convenient as may be, and bounding them by county lines; but no alteration or diminution of the number of circuits shall have the effect to remove a judge from office.

"Section 7. For each circuit there shall be a judge chosen by the qualified electors therein, who shall hold his office for the term of five years, and until his successor shall be chosen and qualified; and when elected he shall reside in the circuit for which he was elected.

"Section 8. The circuit courts shall have original jurisdiction in all matters civil and criminal within this state not otherwise excepted in this constitution and not hereafter prohibited by law, and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control over the same. They shall also have the power to issue writs of habeas corpus, mandamus, prohibition, quo warranto, certiorari, and all other writs necessary to enforce their own jurisdiction and give them a general control over inferior courts and jurisdictions.

"Section 9. When a vacancy shall happen in the office of a supreme or circuit judge such vacancy shall be filled by an appointment by the governor, which shall continue until a successor is elected and qualified, and when elected such successor shall hold his office for a full term. No election for judges, or for any single judge, shall be held within thirty days of any other general election.

"Section 10. Each of the judges of the supreme court shall receive a salary of not less than $1,500 dollars annually; and each of the judges of the circuit court shall receive a salary of not less than $1,200 annually; and the salary of no judge shall be diminished during his continuance in office. They shall receive no fees of office or other compensation than their salaries; they shall hold no other office or public trust, and all votes for either of them for any office except that of judge of the supreme or circuit court given by the legislature or the people shall be void. If any judge shall resign his office he shall not be eligible or appointed to any office within one year after such resigna-

tion. No person shall be elected to the office of judge who is not a citizen of the United States, who shall not have attained the age of twenty-five years, and who shall not have resided within this state or territory two years previous to his election.

"Section 11. The supreme court shall hold at least one term in each judicial circuit annually, at such times and places as shall be provided by law. A circuit court shall be held in each county of this state organized for judicial purposes at least twice in each year. The circuit judges may hold courts for each other, and shall do so when required by law, and any judge of the supreme court shall hold a circuit court in such cases as may be provided by law.

"Section 12. Until the legislature shall otherwise provide the circuit judges shall interchange circuits and hold courts in such a manner that no judge of either of said circuits shall hold courts in any one circuit for more than one year in five successive years, except in case of vacancy, absence, or of inability or disability of one of said judges.

"Section 13. There shall be a clerk of the circuit court chosen in each county organized for judicial purposes by the qualified electors therein, who shall hold his office for four years, subject to removal, as shall be provided by law. In case of vacancy the judge of the circuit shall have the power to appoint a clerk until the vacancy shall be filled by an election.

"The supreme court shall appoint its own clerks, and a clerk of the circuit court may be appointed a clerk of the supreme court.

"Section 14. Any judge of the supreme or circuit court may be removed from office by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to each house concur therein, but no removal shall be made by virtue of this section unless the party complained of shall have been served with a copy of the complaint against him, and shall have had an opportunity of being heard in his defense, and no judge shall be removed for any cause for which he might have been impeached. On the question of removal the ayes and noes shall be entered on the journals.

"Section 15. There shall be chosen in each county by the qualified electors thereof a judge of probate, who shall hold his office for two years, and until his successor is elected and qualified.

"Section 16. The electors of the several towns at their annual town meeting and the electors of cities and villages at their charter elections shall in such manner as the legislature may direct elect justices of the peace, whose terms of office shall be for two years and until their successors in office shall be elected and qualified. They shall have jurisdiction coextensive with the county in which they are elected in such cases as shall be prescribed by law when the debt or balance due or damages claimed by the plaintiff do not exceed one hundred dollars, inclusive of interest, and where the demands of both parties proven on the trial do not exceed two hundred and fifty dollars, and such criminal jurisdiction as shall be granted by law.

"Section 17. Tribunals of conciliation may be established with such powers and duties as may be prescribed by law, but such tribunals shall have no power to render judgment to be obligatory on the par-

ties, except they voluntarily submit their matters in difference and agree to abide the judgment or assent thereto, in the presence of such tribunal, in such cases as shall be prescribed by law.

"Section 18. The legislature shall have power to vest in clerks of courts or in other competent persons authority to grant such orders and do such acts as may be deemed necessary for the furtherance of the administration of justice; but in all cases the powers thus granted shall be specified and determined.

"Section 19. The style of all writs and process shall be in the name of the state of Wisconsin, and all criminal prosecutions shall be carried on in the name and by the authority of the same.

"Section 20. The legislature shall impose a tax on process or a rate of fees on suits commenced or prosecuted in the supreme and circuit courts; they shall also limit by law the total amount of fees which the clerks of said courts may retain in payment for their services; and the excess of fees received by said clerks beyond the amount so limited and all fees arising from such tax or rate shall be paid into the treasury of the state and shall constitute a fund to be applied towards the payment of the salary of judges.

"Section 21. The testimony in equity cases shall be taken in like manner as in cases at law; and the office of master in chancery shall be abolished.

"Section 22. Any male citizen residing in this state, of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of learning and ability, shall be entitled to admission to practice in all the courts of this state.

"Section 23. There shall be an attorney general chosen by the qualified electors of the state, and a district attorney shall be elected in each county organized for judicial purposes by the qualified voters therein, whose duties, compensation, and term of service shall be prescribed by law.

"Section 24. The legislature shall provide for the speedy publication of all statute laws, and of such judicial decisions made within this state as it may deem expedient. All laws and judicial decisions shall be free for publication by any person, and no general law shall be in force until published.

"Section 25. The legislature as early as at its first session after the admission of this state into the Union shall provide for the appointment of three commissioners, whose duty it shall be to revise, simplify, and arrange the statute laws of this territory or state, with proposed amendments, to inquire into and ascertain the rules of practice, pleadings, forms, and proceedings most suitable to be adopted in the courts of record in this state, and to report thereon to the legislature, subject to their modification and adoption. Any judge of this state may be appointed and serve on such commission, and any such commissioner may be elected to the office of judge, anything in this constitution to the contrary notwithstanding.

"Respectfully submitted,

C. M. Baker, Chairman."

Which was read the first and second times, referred to the committee of the whole, and ordered printed.

Mr. Baker stated that the committee had disagreed in some parts of the report, as follows:

On the question of elective judiciary, 5 to 4; on the question of district supreme court, instead of a nisi prius system, 5 to 4; on county or side judges, 7 to 2; but that the minority did not intend to make a report that [but] would embody their views in amendments.—*Democrat,* Oct. 31, 1846.

Mr. Magone moved that 1,000 copies of the report of the committee on the judiciary be printed together with the accompanying documents, for the use of the convention, in pamphlet form.

Mr. Hicks moved to amend by striking out the words "together with the accompanying documents." Pending the question thereon, Mr. Baird moved that the motion be laid upon the table.

And the question having been put, it was decided in the negative.

And a division having been called for, there were 29 in the affirmative and 42 in the negative.

The question then recurred on the adoption of the amendment of Mr. Hicks. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 30, negative 51; for the vote see Appendix I, roll call 40].

Mr. Baird called for the special order of the day, when Mr. Dennis moved that the rule be suspended for the consideration of the motion of Mr. Magone. And the question having been put, it was decided in the affirmative. And a division having been called for, there were 49 in the affirmative and 20 in the negative.

Mr. Rogan moved to amend the motion of Mr. Magone by adding, "and also that 1,000 copies of said report and accompanying argument be printed in the German language for circulation among the German population of the territory."

Mr. Dennis called for the previous question, and previous to the ordering the same, on motion of Marshall M. Strong, the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

Mr. Rogan withdrew his amendment.

Mr. Dennis withdrew his call for the previous question.

A. Hyatt Smith moved to amend the motion by adding the words, "1000 copies in the Norwegian language," which was disagreed to.

Mr. Phelps moved to amend by adding the words, "and also 1,000 copies in the Indian tongue," which was disagreed to.

The question then recurred on the motion of Mr. Magone, and having been put it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 46, negative 36. For the vote see Appendix I, roll call 41].

John Y. Smith moved a suspension of the rules to allow him to move a reconsideration on the vote by which the article on the organization and functions of the judiciary was referred to the committee of the whole and ordered printed. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 57, negative 25. For the vote see Appendix I, roll call 42].

John Y. Smith then moved that the vote referring the said article and accompanying documents to the committee of the whole and ordering the same to be printed, be reconsidered, which was agreed to. And a division having been called for, there were 47 in the affirmative and 11 in the negative.

John Y. Smith moved that the article and accompanying documents be referred to the committee of the whole, and the article only ordered printed, which was agreed to.

No. 2, "Article on suffrage and the elective franchise," it being the special order of the day, was taken up, when Messrs. Dennis, Ryan, Huebschmann, Barber, and Wm. R. Smith asked the unanimous leave of the convention to amend the same. Leave was not granted.

Mr. Hicks moved that the said article be committed to a select committee of five, with instructions to report the same back tomorrow morning with the following amendment, to wit:

"Section 1. Every white male resident citizen, Indians not excepted, of the age of twenty-one years and upwards shall be entitled to vote for or against the adoption of this constitution and for every officer which by the constitution or by-law shall be elected by the electors, and every white male resident, not a citizen of the United States, but who shall have declared his intention to become such in conformity with the laws of Congress, shall be entitled to vote at all corporation, town, ward, or precinct elections.

"Section 2. No person shall be entitled to vote at any election in this state who shall not have resided in this state six months, and in the county, town, ward, or precinct ten days next preceding such election."

And the question having been put, it was decided in the negative.

Mr. Magone moved that the same be recommitted to the committee on suffrage and the elective franchise with instructions to report the same back in the simplest language possible. And the question having been put, it was decided in the negative. And a division having been called for, there were 15 in the affirmative, negative not counted.

Mr. Kellogg called for the previous question, which was ordered. And the question having been put ["Shall the main question be now put?"] it was decided in the affirmative.

The question was then put on the passage of the said article and was decided in the affirmative. And the ayes and noes having been

called for and ordered, those who voted in the affirmative were [affirmative 69, negative 16; for the vote see Appendix I, roll call 43].

So the article passed, and the title thereof was agreed to.

Mr. Magone moved that the vote on the passage of the said article be reconsidered, which was disagreed to.

Suffrage and Elective Franchise

The Chair announced the question on this article to be on its passage.

Mr. Prentiss said that he voted against the third reading of the article for the reason that he thought it was not perfect and that it ought to be further amended; besides he had doubts as to the constitutionality of one of its provisions; still, as they were but doubts, and as there was an evident unwillingness to make any alterations or amendments in the article, he should vote for it on its final passage.

Chas. E. Browne spoke at length in favor of the right of foreigners to vote.

H. Chase explained the reason of his vote in short.

W. Chase should vote against the article because it prohibited negro suffrage, because it prohibited men holding offices under other states from holding offices in this state, and because of the declaration against betting. He was in favor of the principle of allowing foreigners to vote.

Several attempts were made to amend, all of which were objected to, and then the article passed, ayes 68, noes 16.—*Argus,* Nov. 3, 1846.

No. 3, "Article on eminent domain and the property of the state," was then taken up, when John Y. Smith moved to amend by adding to the first section the following proviso:

"Provided, and the foregoing section is adopted on the express condition that the state of Wisconsin shall be entitled to so much land as shall, together with the amount heretofore granted to the territory of Wisconsin for purposes of internal improvement and which shall accrue to the said state, make 500,000 acres, to be selected from the unsold and unappropriated lands within this state, in legal subdivisions of not less than 320 acres in a parcel, in such manner and to be disposed of as the legislature thereof may prescribe, but not to be disposed of by said state for less than $1.25 per acre, without the consent of the United States."

Pending the question thereon, Mr. Ryan moved that the said article with No. 11, "Article relative to the act of Congress for the admission

of the state," be referred to the same committee of the whole which shall have under charge "Article relative to the name and boundaries of this state," which was agreed to.

Eminent Domain, Etc.

The question on the amendments of the committee of the whole was taken up and agreed to.

W. Chase moved to strike out the first section of the article.

J. Y. Smith moved to amend the section by adding thereto the following proviso:

"Provided, and the foregoing section is adopted on the express condition, That the state of Wisconsin shall be entitled to so much land as shall, together with the amount heretofore granted to the territory of Wisconsin for purposes of internal improvement and which shall accrue to the said state, make five hundred thousand acres, to be selected from the unsold and unappropriated lands within this state, in legal subdivisions of not less than 320 acres in a parcel, in such manner and to be disposed of as the legislature thereof may prescribe, but not to be disposed of by said state for less than $1.25 per acre, without the consent of the United States."

In support of this amendment Mr. S. contended that the distribution act did not secure to the state of Wisconsin five hundred thousand acres of land, because two contingencies were now in operation to prevent the effect of this act: a war with a foreign power, and a tariff above twenty per cent. But ten sections were given by the act to admit the state into the Union. The right to the soil vested in the sovereign power of the state, and Congress asked it to be ceded away, and to that he was opposed without some remuneration. The Ordinance of 1787 he contended had been repealed by the Constitution of the United States, and the fourth article was not binding; but if it was, then all parts of it were binding, and the boundaries of the state could not be changed. Congress had acted on the principle that the ordinance had been repealed, and being by them violated, the right of the state accrued to all the lands.

A. Hyatt Smith denied the right of the state of Wisconsin to the lands within her limits, and that the ordinance was in

force and could not be repealed. It was so contended in the case of Michigan by the ablest minds of Congress.

On motion of Mr. Ryan, this article and the article on the act of Congress were referred to the committee of the whole which should have the article on boundaries of the state, etc., under consideration.—*Argus,* Nov. 3, 1846.

The convention then resolved itself into committee of the whole for the consideration of No. 4, "Article relative to the militia," Hiram Barber in the chair. And after some time spent therein, rose and reported the same back to the convention without amendment.

On motion of Mr. Tweedy the convention adjourned.

Mr. Phelps declaimed loudly against keeping up the militia as a useless expense; he said it had cost the territory some two or three hundred dollars per annum to take care of twenty rusty muskets and he hoped to see this thing abolished.

After some further discussion, Mr. Dennis moved that the committee rise and report the article back to the house without amendments, which was carried and the committee rose.—*Express,* Nov. 3, 1846.

Article on the Militia

The article on the militia came up in its regular order, in committee of the whole, when W. Chase moved to amend by substituting a new article, providing:

First, That the state may enact laws to enroll all able-bodied male citizens of the state between the ages of eighteen and forty-five.

Second, That on such enrollment they shall be officered, armed, and equipped.

Third, That the governor shall have power to call out the militia to suppress insurrection, etc.

Fourth, That persons having conscientious scruples against bearing arms shall not be compelled to do military duty.

The motion was lost, and the convention adjourned.—*Argus,* Nov. 3, 1846.

WEDNESDAY, OCTOBER 28, 1846

[Prayer by the Rev. Mr. Miner.]

The journal of yesterday was read.

Geo. B. Smith, from the committee on a bill of rights, reported No. 14, "bill of rights."

"The committee on a bill of rights have had under consideration the subject referred to them, and have the honor to report and recommend the adoption of the following:

"Section 1. All men are born free and independent; therefore all government of right originates from the people, is founded in consent, and instituted for the general good.

"Section 2. There shall be neither slavery nor involuntary servitude in this state otherwise than for the punishment of crimes, whereof the party shall have been duly convicted.

"Section 3. The people of this state have the sole and exclusive right of governing themselves as a free, sovereign, and independent state; and do and forever hereafter shall exercise and enjoy every power, jurisdiction, and right pertaining thereto.

"Section 4. The liberty of the press is essential to the security of freedom; and it ought not therefore to be restrained in this state.

"Section 5. The legislature shall make no law abridging the freedom of speech or the right of the people peaceably to assemble and to petition for a redress of grievances.

"Section 6. The freedom of deliberation, speech, and debate in either house of the legislature is so essential to the rights of the people that it cannot be the foundation of any action, complaint, or prosecution in any place whatsoever.

"Section 7. The legislature shall not possess or exercise any powers except such as are expressly granted by this constitution; and all power and authority not expressly granted by this constitution is reserved to the people.

"Section 8. In the government of this state the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise either the legislative or judicial powers; the judicial shall never exercise either the legislative or executive powers—to the end that it may be a government of laws and not of men.

"Section 9. The inhabitants of this state shall be entitled to the writ of habeas corpus, writs of error, and trial by jury.

"Section 10. All persons shall be bailable unless for capital offenses where proof shall be evident or the presumption great; all fines shall be moderate, and no cruel or unusual punishment shall be inflicted.

"Section 11. No person shall be deprived of life, liberty, or property but by the judgment of his peers or the law of the land.

"Section 12. No person shall be held to answer for a capital or otherwise infamous crime, unless on presentment or indictment of a grand jury; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself.

"Section 13. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

"Section 14. No ex post facto law nor any law impairing the validity of contracts shall ever be made; and no conviction shall work corruption of blood or forfeiture of estate.

"Section 15. No person demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in this state.

"Section 16. Private property ought and shall ever be held inviolable, but always subservient to the public welfare, provided a compensation in money be made to the owner, the value thereof to be assessed by a jury of the county in such manner as may be provided by law.

"Section 17. Foreigners who are or who may hereafter become residents of this state shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native born citizens.

"Section 18. No person shall be imprisoned for debt in this state unless upon refusal to deliver his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases where there is strong presumption of fraud.

"Section 19. No religious test shall be required as a qualification for any office of public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity in consequence of his opinions on the subject of religion.

"Section 20. The military shall be kept under strict subordination to the civil power.

"Section 21. The people have a right to bear arms for the defense of themselves and the state.

"Section 22. All elections ought to be free; and all men having sufficient evidence of permanent common interest with, and attachment to the community have a right of suffrage and cannot be taxed or deprived of their property for public use without their own consent or that of their representatives so elected, nor bound by any law to which they have not in like manner assented for the public good.

"Section 23. The legislature shall make no law respecting the establishment of religion, nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or for the maintenance of any minister or ministry.

"Section 24. The legislature shall protect by law from forced sale a certain portion of property of all heads of families.

"The homestead of a family, not less than forty nor to exceed one hundred and sixty acres (not included in any town or city) or any town or city lot shall not be subject to forced sale for any debts hereafter contracted, nor shall the owner, if a married man, be at liberty to alienate the same unless by the consent of the wife in such manner as the legislature may hereafter point out.

"Section 25. A frequent recurrence to the fundamental principles of the constitution and a constant adherence to justice are indispensably necessary to preserve the blessings of liberty and a good government.

GEO. B. SMITH, Chairman."

Which was read the first and second times, referred to the committee of the whole, and ordered to be printed.

Geo. B. Smith, from the minority of the committee on the organization and functions of the judiciary, reported No. 13, "Article on the organization and functions of the judiciary."

"Section 1. The judicial power of this state both as to matters of law and equity shall be vested in a supreme and district court for each county, in justices of the peace, and in such other courts as the legislature may from time to time establish.

"Section 2. The supreme court shall consist of three judges, any two of whom shall form a quorum. They shall have original and appellate jurisdiction both in common law and chancery, in such cases as shall be directed by law. Provided that nothing herein contained shall prevent the legislature from adding another judge or judges to the supreme court after the term of five years.

"Section 3. The several district courts shall consist of a district and associate judges. The state shall be divided by law into five districts; there shall be elected in each district a district judge who shall hold his office for four years and until his successor is duly elected and qualified, who during his continuance in office shall reside therein.

"There shall be elected in each county not less than two nor more than three associate judges who shall hold their office for four years and until their successors are duly elected and qualified, who, during their continuance in office, shall reside therein.

"The district and associate judges, in their respective counties, any two of whom shall be a quorum, shall compose the district court, which shall have common law and chancery jurisdiction in all such cases as shall be directed by law; provided that nothing herein contained shall prevent the legislature from increasing the number of districts and district judges after the term of five years.

"Section 4. The judges of the supreme and district courts shall have complete criminal jurisdiction in such cases and in such manner as may be provided by law.

Section 5. The associate judges of the district court in each county shall have jurisdiction of all probate and testamentary matters, grant-

ing letters of administration, the appointment of guardians, and such other powers and jurisdiction as shall be provided by law.

"Section 6. The judges of the district court shall within their respective counties have the same powers with the judges of the supreme court to issue writs of certiorari, writs of habeas corpus, mandamus, prohibition, quo warranto, and other original remedial writs, and to hear and determine the same.

"Section 7. The judges of the supreme court shall be elected by the qualified electors of this state as shall be prescribed by law to hold their offices for six years and until their successors are duly elected and qualified.

"Section 8. The supreme court shall be held once a year in each county; and the district court shall be holden in each county at least twice a year as shall be prescribed by law.

"Section 9. The testimony in equity cases shall be taken in like manner as in cases at law.

"The office of master and examiner in chancery are hereby abolished.

"Section 10. The clerks of the supreme and district courts shall be elected by the qualified electors of each county in this state as shall be prescribed by law. The clerks of the supreme court shall hold their office for six years and until their successors are duly elected and qualified; and the clerks of the district court shall hold their offices for the term of four years and until their successors are duly elected and qualified, subject to be removed at any time by the judges of said courts for incompetency.

"Section 11. A competent number of justices of the peace shall be elected by the qualified electors in each township in the several counties and shall continue in office for two years and until their successors are duly elected and qualified, whose powers, jurisdiction, and duties shall from time to time be regulated and defined by law.

"Section 12. The state shall be divided for judicial purposes as follows:

The counties of Brown, Calumet, Winnebago, Sheboygan, Manitowoc, and Fond du Lac shall compose the first district.

"The counties of ————, Milwaukee, Waukesha, and Jefferson shall compose the second district.

The counties of Racine, Walworth, Rock, and Green shall compose the third district.

The counties of Dane, Sauk, Dodge, Columbia, Portage, and Marquette shall compose the fourth district.

The counties of Iowa, Grant, Richland, and Crawford shall compose the fifth district.

The counties of St. Croix, Chippewa, and La Pointe shall be attached to the fifth district for judicial purposes, until otherwise provided by law.

"Section 13. The style of all process shall be 'The State of Wisconsin.'

"All prosecutions shall be carried on in the name and by the authority of the State of Wisconsin; and all indictments shall conclude against the peace and dignity of the state.

GEO. B. SMITH
B. O'CONNOR"

The said report was received. The article was read the first and second times, referred to the committee of the whole, and ordered printed.

Mr. Randall introduced the following resolution, which was read, to wit: "*Resolved,* That 1,000 copies of the minority report on the judiciary be printed in pamphlet form for distribution."

The resolution introduced by Mr. Crawford on yesterday was then taken up, when Mr. Magone moved that the same be referred to the committee on the schedule for the organization of state government, which was agreed to.

The resolution introduced by L. Goodell on yesterday was taken up, when Mr. Goodell, by the unanimous leave of the convention, withdrew the same.

No. 4. "Article relative to militia," was taken up, when Mr. Cruson moved to amend by striking out the first section thereof and inserting as follows:

"The legislature shall provide by law for organizing the militia in such manner as they may deem expedient, not incompatible with the constitution and laws of the United States.

"Persons who have conscientious scruples against bearing arms shall not be compelled to do so, but may be compelled to pay an equivalent for personal service.

"The governor shall have power to call out the militia to execute the laws of the state, to suppress insurrection, and to repel invasion."

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 21, negative 66; for the vote see Appendix I, roll call 44].

General Smith opposed the amendment, as it did not render it obligatory upon the legislature to organize the militia.

General Crawford was one of the committee to whom had been submitted this subject and [was] ardently in favor of the report. He considered the organization of the militia very essential, which organization he thought to consist of its division into regiments, brigades, battalions, and companies, and the report provides for nothing more. He had done duty in the militia for seventeen years, and had not yet received the first dollar for such service—nothing but the bare honor of the thing, and he was satisfied with that. The brigade inspectors might possibly be paid for inspecting a brigade, but not otherwise, and the inspection could not take place oftener than once a year, making the enormous expense to the state of six dollars per year for this duty; the adjutant general, too, might receive a trifling salary as a matter of charity, as some gentle-

men had been pleased to remark, but the whole expense of thoroughly organizing and disciplining the militia of the state would be a comparative trifle. It is true we might never want this force; we may always be like the Whigs he spoke of the other day, very docile, but he was somewhat dubious about this. Some who professed to be progressive Democrats here had already exhibited a very turbulent spirit since we met here.

Mr. Baker was in favor of the original report and advocated at some length the thorough and efficient organization of the militia, mustering, training, etc., terming it the right hand of our national defense!

There was considerable further discussion upon this question principally between W. R. Smith and General Crawford in favor of the original report of the committee and against the proposed amendment, and Marshall M. Strong, Lovell, Randall, and Bevans opposed the old exploded and absurd system of enrollment, quarterly trainings, appointing and paying officers to sustain the organization, and all other paraphernalia of the "gingerbread and sweet cider" days of sodgering.

The question being taken on Mr. Cruson's amendment, it was lost.—*Express,* Nov. 3, 1846.

Mr. Burchard moved to amend the second line of the first section thereof by striking out the words "negroes and mulattoes excepted."

Mr. Burchard moved to strike out the words "negroes and mulattoes." He wanted these men should have a show in these trainings.—*Argus,* Nov. 3, 1846.

Pending the question on said amendment, Mr. Judd called the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative. And a division having been called for, there were 46 in the affirmative and 25 in the negative.

The question was then put on adopting the amendment offered by Mr. Burchard, which was disagreed to.

The question was then put on ordering the said article to be engrossed for its third reading and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 68, negative 21; for the vote see Appendix I, roll call 45].

Mr. Manahan moved that the rules be suspended for the consideration of a resolution relative to the receiver of the canal lands, which was agreed to.

Mr. Manahan then introduced the following resolution, which was read and adopted, to wit: "WHEREAS, the receiver of the Milwaukee and Rock River Canal has a sum of money in his hands received by him for interest arising from sales of the canal lands made previous to the act of 1845, authorizing the late sales of said lands, and WHEREAS the said receiver has doubted whether he was authorized to pay the same into the treasury of the territory by the resolution approved February 3, 1846, therefore, *Resolved,* That the said receiver is hereby requested to pay over to the president of this convention all moneys arising from any sale of the canal lands, whether the same is interest or principal."

Mr. M. explained that the receiver had now in his hands some four or five thousand dollars, which he had not paid over to the treasurer of the territory for the reason that the resolution of the legislature only authorized him to pay over such moneys as might thereafter arise from the sale of said lands, while this sum had accrued previous to the passage of the resolution aforesaid. He offered this resolution because he understood that the receiver would feel himself justified in paying it over upon the passage of such a resolution by this convention, but at present could not conceive himself authorized to do so. He would also remark that the receiver was well known to be a gentleman of very high standing for probity, etc., and it was only through fear of exceeding his authority in this matter that he refused to pay over the above sum.—*Express,* Nov. 3, 1846.

No. 5, "Article relative to internal improvements," was then taken up, when Wm. R. Smith moved that the same be referred to the same committee of the whole which shall have under charge No. 6, "Article on taxation, finance, and the public debt," which was agreed to.

The convention then resolved itself into committee of the whole for the consideration of No. 6, "Article on taxation, finance, and public debt," and No. 5, "Article relative to internal improvements," Mr. Nathaniel F. Hyer in the chair. And after some time spent therein, rose, and by their chairman reported progress thereon, and asked leave to sit again. Leave was granted.

On motion of Mr. Magone the convention took a recess until two o'clock P. M.

Mr. Ryan offered an amendment to the first section of the article, the object of which was to restrict the legislature from levying any tax [except] upon property; or, in other words, to restrict them from levying any capitation or poll tax.

Mr. Judd did not think the amendment improved the section any, and although he was not tenacious upon the subject, he would vote against the proposed amendment because it did not, in his opinion, alter or improve it.

Marshall M. Strong opposed the whole article for the reason, as we understood him, that he found no such proposition in the new constitution of the state of New York, which he held in his hand. He was in favor of leaving the subject for future legislation.

Messrs. Baker, Judd, Ryan, and Marshall M. Strong continued the discussion, and there appeared at one time some appearance of a slight "difference of opinion" between Messrs. Judd and Ryan. The former used the term "the Lawyer" in application to Mr. Strong, and also said something concerning lawyers which displeased Mr. Ryan, whereupon that gentleman took the floor and answered with some remarks in which "low," "mean," "vagabond," "unworthy," "Jack Cade" prejudices, and other similar epithets figured somewhat conspicuously.

Mr. Judd remarked that he used the term "lawyers" in no exceptionable phrase, and the term "the Lawyer," as applied to Mr. Strong, he had first heard from the gentleman himself in this convention.

Mr. Ryan denied having used the term in convention, but in caucus, and the question was one of veracity between himself and the gentleman.

Mr. Dennis cut the matter short by moving that the committee rise and report progress, which was carried.—*Express*, Nov. 3, 1846.

TWO O'CLOCK, P. M.

The convention again resolved itself into committee of the whole for the consideration of the said articles Nos. 5 and 6, N. F. Hyer in the chair. And after some time spent therein, rose and by their

chairman reported progress thereon, and asked leave to sit again. Leave was granted.

On motion, the convention adjourned.

The question pending was upon Mr. Ryan's amendment, which was discussed by Messrs. J. A. Barber against and Ryan in favor of it.

Mr. Baird offered an amendment to the amendment, to except road or highway tax, which was accepted.

Mr. H. Barber then offered an amendment, which was as follows: "All taxes levied upon property in this state at any time shall be as nearly equal as may be, and no capitation or poll tax shall be levied unless for road or highway labor," which he proposed to substitute for the first section of the article. As this amendment covered the whole ground intended by Mr. Ryan, that gentleman withdrew his amendment, and the question being taken, it was at once adopted.

Mr. Baird moved to strike out the second section, as the same proposition was contained both in the report of the committee on the eminent domain and in that of the committee on the act of Congress for the admission of the state. He did not object to the substance of the article, but thought it needless to have it inserted in three or four different articles.

The section was stricken out.

The third section then underwent a close scrutiny and was also finally stricken out.

The fourth section caused considerable discussion, which occupied the committee until the usual hour for adjournment. The question was whether parsonage houses and lands belonging thereto should be exempted from taxation, upon which no decision was arrived at, when Mr. Judd moved that the committee should rise and report progress.

Mr. Baird moved to rise and report the article back to the house, for which motion he claimed precedence on the ground that it was equivalent to a motion to adjourn.

The Chair decided to put the questions in the order they came up, and Mr. Judd's motion was carried. The committee then rose, and, after reporting, the convention adjourned.—*Express,* Nov. 3, 1846.

THURSDAY, OCTOBER 29, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Mr. Berry asked leave of absence for Mr. Baker. Mr. Burchard asked leave of absence for Mr. Burt. Leave was granted.

Mr. O'Connor, from the committee on a preamble, reported No. 15, "Preamble."

"The committee to whom was referred the subject of a preamble beg leave to make the following report:

PREAMBLE

"The constitution of the state of Wisconsin, adopted in convention at Madison, on the ——— day of ———— in the year of our Lord one thousand eight hundred and forty-six, and of the independence of the United States the seventy-first.

"We, the people of the territory of Wisconsin, acknowledging with gratitude the grace and beneficence of God in permitting us to make choice of our form of government, having the right of admission into the Union as a member of the confederacy, consistent with the Constitution of the United States, the Ordinance of Congress of 1787, and the law of Congress, approved August 6, 1846, entitled 'An Act to enable the people of Wisconsin Territory to form a constitution and state government, and for the admission of such state into the Union,' believing that the time has arrived when our present political condition ought to cease, and the right of self-government to be asserted; and in order to establish justice, promote the welfare, and secure the blessings of liberty to ourselves and to our posterity do mutually agree with each other to form ourselves into a free and independent state, by the name of the State of Wisconsin, and do ordain and establish this constitution for the government thereof.

"All of which is respectfully submitted.

BOSTWICK O'CONNOR, Chairman
JAMES H. HALL
LAFAYETTE HILL
ABEL DUNNING
JOSEPH BOWKER"

Which was read the first and second times, referred to the committee of the whole, and ordered to be printed.

Mr. Bevans, from the committee on municipal corporations, reported No. 16, "Article on municipal corporations."

"The committee to whom was referred the subject of municipal corporations have had the subject under consideration and ask leave

to report the following article and recommend its adoption by the convention:

"Section 1. The legislature shall provide for the creation and government of municipal corporations by general and uniform laws and not otherwise.

"Section 2. No municipal corporation shall have power to contract debts on account of said corporation for any purposes whatever.

"All of which is respectfully submitted.

L. BEVANS, Chairman
J. S. PIERCE
LORENZO HAZEN"

Which was read the first and second times, referred to the committee of the whole, and ordered to be printed.

Mr. Hunkins, from the committee on engrossment, reported No. 4, "Article on the militia," as correctly engrossed.

Mr. Doty, from the committee on the name and boundaries of the state, reported No. 17, "Article in relation to the boundaries of Wisconsin."

"The committee upon the name and boundaries of the state of Wisconsan, respectfully report:

"That the act of Congress entitled 'An Act to enable the people of Wisconsan Territory to form a constitution and state government, and for the admission of such state into the Union,' approved August 6, 1846, gave the name of 'Wisconsan' to this state and did not submit the question whether it should have that, or any other name, to this convention. And another committee of this convention having adopted in their report the same name, this committee has not deemed it necessary to investigate the subject.

"It is provided in the above mentioned act that this convention shall declare, 'in an ordinance irrevocable without the consent of the United States,' that this state accepts of the boundaries therein prescribed. In compliance with this act your committee has prepared an ordinance which is herewith submitted.

"But as these boundaries are essentially different from those of the present territory of Wisconsan, as well as from those which have hitherto been claimed for this state by the inhabitants of the territory, and by the legislative and executive departments of the territory, your committee has also, in the performance of its duties, inserted provisions in this ordinance asserting the right of this state to its ancient limits, and submitting the question in dispute with the states of Illinois and Michigan to the Supreme Court of the United States for final adjudication and settlement.

"By this reference, the state only asserts her rights constitutionally; and, following the example of Iowa and Missouri, which has been approved by the government of the United States, manifests her intention to effect a peaceable adjustment of them with her neighbors by submitting them for determination to the judicial tribunals of the country, according to the Constitution of the United

States. If Congress, however, will now assent to the original boundaries of this state, the controversy with the adjoining states on the south and east may perhaps be adjusted without further difficulty.

"It is not proposed at present to discuss the question of the right of this state to the boundaries claimed, as it is doubtless well understood by the members of this convention; but we respectfully offer herewith copies of the fifth article in the Ordinance of 1787, and of the act of Congress prescribing limits to Michigan in the year 1805; also, the report of a committee of the Council of this territory made in the year 1842, in relation to the proper boundaries of this state, which presents and discusses this subject with great ability; and your committee asks that the copy hereto annexed may be received as a part of this report.

"If this convention gives, by adopting the ordinance now submitted, a qualified assent to the boundaries proposed in the act of Congress of the last session, your committee are of the opinion that the state will be entitled to, and will obtain immediate admission into the Union.

"Missouri gave, in the year 1821, a qualified assent to a condition imposed upon her authority by the government of the United States, a full compliance with which was required; yet she was admitted and still retains her place in the Union. 6 vol. *Laws U. S.* 666.

"The question of an unadjusted or indefinite boundary cannot be considered an objection to admission. It is well known that several of the thirteen original states came into the Union with contested boundaries, some of which have been but lately settled, and others, it is believed, are still undetermined. And so indefinite was the line which separated New York and New Hampshire, the people of Vermont in virtue of their own authority formed that state out of the county which was in dispute between those states and after asserting and maintaining her sovereignty for twenty years was finally admitted into the Union.

"Provision was made for the admission of the state of Iowa by Congress at its last session, and at the same time for the adjustment of the contested boundary between her and the state of Missouri by the Supreme Court. We are thus only following an example which has been approved by the government of the United States. A copy of the section of the act of Congress which provides for the settlement of the boundary by the Supreme Court is herewith submitted.

"We would also refer to the instance of the state of Michigan. That state, having ascertained by a census that she had 60,000 free inhabitants within her limits, as established by the Ordinance of 1787 and by the act of Congress of 1805, formed her constitution and demanded admission. She elected her senators and representatives to Congress, and all of her state officers, and thus threw off the territorial government on the adoption of her constitution by the people and became then an independent state.

"Congress, on the 15th of June, 1836, passed an act prescribing other boundaries for her than those which she had adopted and

submitted these new boundaries to the people of Michigan for their acceptance. In the same act, and before the assent of the people of Michigan was or could have been given to the alteration, it is provided that the senators and representatives [of Michigan] in the Congress of the United States shall be entitled to take their seats in the Senate and House of Representatives, respectively, without further delay. 9 vol. *Laws U. S.* 377.

"The assent of the people of a portion of the state having been given (but not of that portion beyond the original boundaries of Michigan) an act to admit the state into the Union was passed on the 26th day of January, 1837.

"Thus she became by her own action an independent state, exercising all her functions of sovereignty, admitted into the national councils, voted for the president of the United States, received her proportion of the surplus fund which was distributed among the states, and enjoying all the benefits of the Union before the boundaries were adjusted and settled.

"It therefore appears from these instances that states can be and have been admitted into the Union with undefined as well as unsettled boundaries; that when Congress requires the assent of a state to a condition imposed, a qualified assent may be given and the state admitted; and that a state may be admitted while the question is pending and undetermined in the Supreme Court of the United States, whether she is entitled to one line or another for her boundary. And in this last case this mode of establishing a contested boundary is expressly sanctioned by a special act of Congress.

"Whatever changes Congress has hitherto made in the boundaries of this state by extending over portions of it the jurisdiction of other states she has been well aware were not binding without the consent of the people of this state. The consent of the states of Illinois and Michigan was asked and given— and might well be given by them as they were to acquire thereby extensive and valuable territory; but the consent of this state to those encroachments is now asked, and the question is, Shall it be given?

"The proposition now made by Congress that we shall assent to these alterations implies that in the opinion of that body 'common consent,' that is, the consent of all the parties interested, is required to alter the boundaries fixed in the articles of compact. If this state refuses to consent, her limits will remain unchanged; but it is nowhere said by Congress or in the ordinance or constitution that this state shall forfeit its right to be admitted if she does not yield her consent.

"In conclusion, your committee express the opinion that the boundaries claimed are the true boundaries of the state of Wisconsin as fixed and established by an article in the Ordinance of 1787 which was declared to be 'irrepealable unless by common consent'; that the inhabitants of this state have never given their consent to repeal or alter them; that the propositions now made by Congress contain no consideration which ought to be received by this state for her consent to such repeal or alteration or the surrender upon such a demand for her unquestionable rights; and that by said ordinance and the Con-

stitution of the United States the only questions submitted to Congress by the application of this state for admission are whether her constitution is republican and in conformity to the principles contained in the compact; and that this last of the states in the Northwestern Territory is of right entitled to that admission 'on an equal footing with the original states' if demanded by her, without any other restriction, limitation, or condition than such as is imposed by the ordinance.

J. D. Doty, Chairman
E. W. Edgerton
George B. Hall
L. Goodell"

Ordinance in Relation to the Boundaries of Wisconsan

"Section 1. It is hereby ordained and declared that the state of Wisconsan 'doth consent to and accept of the boundaries' prescribed in the act of Congress entitled 'An Act to enable the people of Wisconsan Territory to form a constitution and state government, and for the admission of such state into the Union' approved August 6, 1846, as hereinafter mentioned, and for the purpose of obtaining admission into the Union, which said boundaries are as follows, to wit:

" 'Beginning at the northeast corner of the state of Illinois, thence running with the boundary line of the state of Michigan through Lake Michigan and Green Bay to the mouth of the Menomonee River; thence up the channel of said river to the Brule River; thence up said last mentioned river to Lake Brule; thence along the southern shore of Lake Brule in a direct line to the center of the channel between Middle and South Islands in the Lake of the Desert; thence in a direct line to the headwaters of Montreal River, as marked upon the survey made by Captain Cram; thence down the main channel of Montreal River to the middle of Lake Superior; thence through the center of Lake Superior to the mouth of St. Louis River; thence up the main channel of said river to the first rapids in the same above the Indian village according to Nicollet's map; thence due south to the main branch of the St. Croix; thence down the main channel of said river to the Mississippi; thence down the center of the main channel of that river to the northwest corner of the state of Illinois; thence due east with the northern boundary of the state of Illinois to the place of beginning.'

"*Provided,* however, That the admission of this state into the Union according to the boundaries as above described shall not in any manner affect or prejudice the right of this state to the boundaries which are 'fixed and established' for the fifth division or state of the Northwestern Territory in and by the fifth article of compact in the ordinance of Congress for the government of the territory northwest of the river Ohio, passed July 13, 1787, and by an act to divide the Indiana Territory into two separate governments, approved the eleventh day of January, 1805, and by the admission of the states of Ohio, Indiana, Illinois, and Michigan into the Union, which said boundaries are as follows, to wit: On the south, by a west line drawn through

the southerly bend or extreme of Lake Michigan to the Mississippi River; on the west, by the Mississippi River from the point where the said line intersects the middle of said river to its source, and thence due north to the forty-ninth parallel of latitude; on the east, by a line drawn from the said southerly bend of Lake Michigan through the middle of said lake to its northern extremity and thence due north to the northern boundary of the United States; and on the north, by the said northern boundary.

"Section 2. The question which has heretofore been the subject matter of controversy and dispute between the territory of Wisconsan and the state of Illinois respecting the northern boundary line of said state, and with the state of Michigan respecting the western boundary line of said state, it is hereby proposed and agreed by the people of the territory and state of Wisconsan shall unless Congress shall assent to the boundaries as herein claimed be referred to the Supreme Court of the United States for adjudication and settlement; and the state of Wisconsan doth hereby further agree to the commencement and speedy determination of such suit, with either or both of said states of Illinois and Michigan, as may be necessary to procure a final decision by the said Supreme Court upon the true location of the said northern and western boundaries.

"Section 3. This ordinance is hereby declared to be irrevocable without the consent of the United States."

No. 2

Extract from the ordinance for the government of the territory of the United States northwest of the river Ohio, passed July 13, 1787.

"It is hereby ordained and declared by the authority aforesaid that the following articles shall be considered as articles of compact between the original states and the people and states in the said territory, and forever remain unalterable, unless by common consent, to wit:

"Article V. There shall be formed in the said territory not less than three nor more than five states, and the boundaries of the states, as soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established, as follows, to wit: The western state in the said territory shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Post Vincent, due north to the territorial line between the United States and Canada, and by the said territorial line to the Lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, and by a direct line due north from the mouth of the Great Miami to the said territorial line. The eastern state shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: *Provided,* however, and it is further understood and declared, That the boundaries of these three states shall be subject so far to be altered that if Congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said terri-

tory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said states shall have 60,000 free inhabitants therein, such state shall be admitted by its delegates into the Congress of the United States, on an equal footing with the original states in all respects whatever; and shall be at liberty to form a permanent constitution and state government: *Provided,* the constitution and government so to be formed shall be republican and in conformity to the principles contained in these articles."

EXTRACT FROM THE ACT OF VIRGINIA OF THIRTIETH DECEMBER, 1788

"The fifth article as above is recited and then declares: 'And [WHEREAS] it is expedient that this commonwealth do assent to the proposed alteration, so as to ratify and confirm the said article of compact between the original states and the people and states in the said territory. Be it therefore enacted by the general assembly, That the aforecited article of compact between the original states and the people and states in the territory northwest of Ohio River be and the same is hereby ratified and confirmed.' "

No. 3

An Act to define the boundaries of the state of Iowa, and to repeal so much of the act of the third of March, 1845, as relates to the boundaries of Iowa, approved August 4, 1846.

"Section 2. That the question which has heretofore been the subject matter of controversy and dispute between the state of Missouri and the territory of Iowa respecting the precise location of the northern boundary line of the state of Missouri shall be and the same is hereby referred to the Supreme Court of the United States for adjudication and settlement, in accordance with the act of the legislature of Missouri, approved March 25, 1845, and the memorial of the council and house of representatives of the territory of Iowa, approved January 17, 1846, by which both parties have agreed to the commencement and speedy determination of such suit as may be necessary to procure a final decision by the Supreme Court of the United States upon the true location of the northern boundary of that state; and the said Supreme Court is hereby invested with all the power and authority necessary to the performance of the duty imposed by this section."

No. 4

Extract from an act of Congress to divide the Indiana Territory into two separate governments, approved January 11, 1805.

"Section 1. That all that part of the Indiana Territory which lies north of a line drawn east from the southerly bend or extreme of Lake Michigan, until it intersects Lake Erie, and east of a line drawn from the said southerly bend through the middle of said lake to its northern extremity, and thence due north to the northern boundary of the

United States shall for the purpose of temporary government constitute a separate territory and be called Michigan.

"Section 2. The inhabitants thereof shall be entitled to and enjoy, all and singular, the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio, by the said ordinance."

No. 5

Report of the committee on territorial affairs to whom was referred so much of the governor's message as relates to a state government, and the proceedings of a meeting held at Madison on the subject.

"The committee on territorial affairs, to whom was referred so much of the governor's message as relates to the formation of a state government, and to whom was referred the proceedings of a meeting of the citizens of Wisconsin held at Madison on the third instant, on the same subject, and on the question of annexing to the future state of Wisconsin so much of the territory now under the jurisdiction of the state of Illinois as lies north of a line drawn east and west through the southerly bend or extreme of Lake Michigan, beg leave to report:

"That they have given these subjects a careful and attentive consideration. A majority of your committee are of opinion that as to the question of expediency in forming a state government, including the territory above alluded to now under the jurisdiction of Illinois, the subject should be submitted to the people of Wisconsin, and by them decided. The right of forming a state government with that territory, when the population amounts to 60,000 or upwards, and claiming an admission into the Union, under the Ordinance of 1787, is one question; the expediency of doing it is another question.

"Your committee do not propose to discuss the advantages or disadvantages to be derived from annexing this territory to Wisconsin but believe that, when the question is submitted to the people, it will be by them discussed, understood, and properly decided. That a community can surrender or give up rights secured to them by law will readily be admitted, but whether it is expedient or for the interest of the people of this territory to relinquish any rights they may have under the Ordinance of 1787 is for them to determine when the question is brought before them; and whatever may be the individual opinions of the committee on this subject, it cannot affect its ultimate decision.

"As to the question of right in extending jurisdiction over this territory and making the same a part of the future state of Wisconsin, your committee have little difficulty in coming to a conclusion. The Ordinance of 1787 can be regarded in no other light than as a solemn compact entered into between the thirteen original states and the people and future state of Wisconsin in common with the people and states to be formed in the Northwestern Territory, as expressed in so many words in the ordinance itself, and Congress can no more repeal, impair, or affect any right secured under that compact by any enact-

ment of theirs than they could repeal the plainest provision of the constitution itself.

"To use the language of a distinguished statesman on the floor of Congress during the controversy between Ohio and the territory of Michigan, 'It is a compact as binding as any that was ever ratified by God in heaven—it cannot be annulled—it is as firm as the world, and immutable as eternal justice.'

"The next inquiry then arises—Was the southern boundary of the two northern states fixed by the ordinance, or was it only a limit as to the extent of these states at the south, with a discretion left with Congress to fix this line at any point north of the southern bend or extreme of Lake Michigan? The following is the language of the ordinance: 'There shall be formed in the said territory not less than three, nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established as follows, to wit: The western states in said territory shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Post Vincent due north to the territorial line between the United States and Canada, and by the said territorial line to the Lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line; the Wabash from Post Vincent to the Ohio; by the Ohio; by a direct line drawn due north from the mouth of the Great Miami to the said territorial line; and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line: *Provided*, however, and it is further understood and declared, That the boundaries of these three states shall be subject so far to be altered that if Congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan.'

"Your committee are aware that it has been contended by some that the proviso in the above article only limits the extent of the two northern states on the south; but, taken in connection with the whole context and object of the ordinance, we cannot conceive that such was the intention of the framers of that article, or is within the meaning and spirit of the language itself.

"The boundaries of the western, middle, and eastern states are particularly and definitely fixed, and the only discretion intended to be left with Congress was as to the formation of three or five states in the whole territory; besides, in the express language of the proviso, if two northern states should be created, Congress should have authority to form them into that part of said territory north of an east and west line through the southern bend of Lake Michigan. Was it intended by the language that two states, however small, might be formed somewhere north of this line, and that the balance of this northern tract, however large, might be attached to the three southern states; or is it the fair and proper construction of the language that the two northern states should be formed out of and comprise the whole of the territory

north of this line? We cannot for a moment doubt that the latter was the intention and is the only fair construction of the language; otherwise it was useless to insert the provision at all so far as the boundary of the two northern states are concerned.

"This, however, is not a new question; and if the opinions of some of the ablest jurists in our country are to be regarded, we must consider the point settled. Chancellor Kent, in his opinion given on certain points submitted to him by the governor of Michigan, calls this proviso in the fifth article 'a clear stipulation that an east and west line drawn through the southerly bend or extreme of Lake Michigan was to be the boundary line between the three states and any new state or states that might be formed north of that line, and that stipulation was binding until withdrawn by common consent.'

"If this is the proper construction of that portion of the ordinance —and it seems to have been so well settled by high authority and the consent of public opinion that it cannot now be well controverted— then it is certain that no acts of Congress and no length of time that the state of Illinois may have exercised jurisdiction over this section of territory can at all affect the rights of the citizens residing within its limits. Four states having already been created in the Northwestern Territory, it is equally clear that when the population within the limits of the fifth shall amount to 60,000 that then under a plain provision of the ordinance its citizens have a right to form a state government and demand an admission, 'by its delegates, into the Congress of the United States, on an equal footing with the original states in all respects'; and that, too, without any previous action of Congress, provided the state constitution and government are republican, and in conformity with the principles of the ordinance.

"So far as the territory claimed by Illinois is concerned, the only question is one of expediency. Shall we relinquish our right to that territory, or shall we assert it? Let the people of Wisconsin decide.

"If it is for the interest, prosperity, and happiness of all the inhabitants north of the line established by the ordinance to be united together in one government, then it is our duty to assert that right. If such should be the decision of the independent freemen of Wisconsin, our course is clear. Let us maintain that right at all hazards—unite in convention, form a state constitution, extend our jurisdiction over the disputed tract, if desired by the inhabitants there, and then, with legal right and immutable justice on our side, the moral or physical force of Illinois—of the whole Union—cannot make us retrace our steps.

"Whether the proper time has now arrived for forming a state government is a question again upon which your committee are divided. If any considerable portion of our citizens, however, entertain that opinion, we deem it a measure they have a right to ask, that the question should be submitted to the people. By the proceedings of a public meeting held at the capitol on the third instant and referred to your committee we are requested to make provision for that purpose.

"In accordance with these views, we submit to the Council a bill providing for referring the question of forming a state government to the people at the next general election, and also a resolution recommending to the people of the territory under the jurisdiction of Illinois to hold an election at the same time on the question of uniting with us in forming a state government.

D. A. J. UPHAM, Chairman"

Which was read the first and second times, referred to the committee of the whole, and ordered to be printed.

Mr. Beall moved that 1,000 extra copies of the report and accompanying documents be printed in pamphlet form for the use of this convention, which was agreed to. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 64, negative 29; for the vote see Appendix 1, roll call 46].

George B. Smith introduced the following resolutions, which were read, to wit: "*Resolved,* That no grant of money or land shall ever be made by this state to any theological institution whatever.

"*Resolved,* That all laws and acts which may be pressed by the legislature of this state shall continue in force only for ten years, unless reënacted."

Mr. Holcombe introduced the following resolution, which was read to wit: "*Resolved,* That a select committee of five be appointed to inquire into the expediency of dividing the territory of Wisconsin, and locating such line of division as shall equitably divide the same into two states."

The resolution introduced by Mr. Randall on yesterday was taken up, when Mr. Dennis moved that the same be laid upon the table, which was agreed to.

No. 4. "Article on the militia," was taken up and read the third time. And the question having been put on the passage of the said article, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 67, negative 26; for the vote see Appendix I, roll call 47].

So the article passed, and the title thereof was agreed to.

The convention then resolved itself into the committee of the whole for the consideration of No. 6, "Article on taxation, finance, and the public debt," Nathaniel F. Hyer in the chair. And after some time spent therein, rose and by their chairman reported progress thereon, and asked leave to sit again thereon. Leave was granted.

On motion of Charles E. Browne, the convention took a recess until two o'clock, P. M.

Mr. N. F. Hyer was called to the chair and the committee took up the article on taxation; the question was on the adoption of the fifth section, which was carried. The question then recurred upon the adoption of the whole article as amended, which was also carried.

Finance

The first and second sections were adopted without amendment and without discussion.

Mr. J. A. Barber offered an amendment to the third section, providing for the publication of a detailed statement of all public moneys drawn from the treasurer, to whom paid and for what purpose, with the volume of laws passed by the next legislature after the same had been published in a newspaper; which was accepted, and the section was adopted.

The fourth section was discussed at some length, and Messrs. H. Brown, Magone, and Tweedy severally offered amendments thereto. The question at issue was whether the state should be allowed to issue evidences of debt to circulate as money; and much was said about the treasurer and his agents buying up scrip at a depreciation of from 25 to 50 per cent and turning it over to the state at its original value. The objectionable character of these issues was vividly set forth, and as ably sustained by Messrs. Tweedy, Noggle, Baker, and Ryan.

Mr. Judd contended that it was advisable to permit the state to issue evidences of debt in cases of emergency.

Mr. Baker offered an amendment to the effect that no evidence of debt should be issued by the state for a less sum than one hundred dollars, which he subsequently withdrew.

John Y. Smith offered an amendment to the section, which no one could see the point or intention of, and it consequently fell by the unanimous vote of the committee, the one vote in the affirmative being that of the "gentleman from Dane," who offered it.

The question was then taken upon Mr. Park's motion to strike out the whole section, which was lost.

Mr. Hicks offered an amendment to strike out and insert, which likewise failed.

The article as amended was then adopted, and the committee rose and reported progress.—*Express,* Nov. 3, 1846.

TWO O'CLOCK, P. M.

The convention again resolved itself into committee of the whole for the consideration of No. 6, "Article on taxation, finance, and the public debt," and No. 5, "Article relative to internal improvements," Nathaniel F. Hyer in the chair. And after some time spent therein, the committee rose and reported No. 6, "Article on taxation, finance, and the public debt," and No. 5, "Article relative to internal improvements," back, with amendments to each.

Mr. Ryan moved that the secretary be directed to make out a fair copy of article No. 6, as amended, which was agreed to.

Mr. Prentiss asked leave of absence for Mr. Turner. Leave was granted.

On motion of Mr. Judd the convention adjourned.

Taxation, Finance, and Public Debt

The committee of the whole again resumed its session on the article on these subjects, and the question being on finance Mr. J. A. Barber moved to add to the third section of the article, which provides that the treasurer shall publish a detailed statement of all money drawn from the treasury during the preceding year, for what purpose, and to whom paid, the following: "also, that the same be printed in the pamphlet laws." The motion prevailed.

Mr. Parks moved to strike out the fourth section of the article, which provides that there shall not be any scrip, certificate, or evidence of debt issued by the state, except as provided for by the second and third sections of the article on public debt. He said he was willing to leave all this matter to the legislature of the state and had no idea that the state officers would be as inefficient, if not derelict, as had been the officers of our present amphibious government.

Mr. Judd was opposed to the issuance of all state scrip and all other issuance of paper money.

Mr. Berry would vote for the retaining of the section, if he could be informed how he could be benefited by not having scrip for any debt the state might owe him.

J. Y. Smith thought all might be accomplished by providing that the debts of one year should all be paid before the debts of a subsequent year were met.

Mr. Judd was pleased with the suggestion and would vote for it if proposed to the article on finance. He did this the more readily because he wished to break down all chances at speculation by collectors and the treasurer. Such a practice he believed had prevailed in Wisconsin, and as a sample he would state that about the first thing he learned after coming to this town was that an individual having some territorial scrip and wishing to use the same was compelled to sell it to a Mr. Charles Larkin, a brother of the Treasurer, for ninety cents on the dollar.

Mr. Tweedy moved to amend the section by inserting a provision that scrip shall not be intended to circulate as money. On this amendment Messrs. Tweedy and Judd made some remarks, when the motion was withdrawn.

(Several other amendments were proposed, but rejected, and the section stands as reported.)

Public Debt

Mr. Ryan moved to amend the second section, which prevailed. (This amendment will appear on a comparison of the article, as reported, with the original.)

A. H. Smith moved to strike out the second section.

Mr. Ryan moved to amend the same, and the motion prevailed.

The motion of Mr. Smith to strike out was then carried, and after adding two sections the report was laid aside to be reported.—*Argus,* Nov. 3, 1846.

The committee then took up Article No. 5, the report of the committee on

Internal Improvements

Mr. Hackett offered as an amendment to strike out all after the word "object," which was adopted.

George B. Smith then offered an amendment to the effect that the legislature shall never encourage internal improvements in any shape or manner whatever, and took the ground while advocating his amendment that internal improvements

were a curse to the state and community, instancing the state of New York as one of the states which had experienced the ill effects of the system.

Messrs. Tweedy, Barber, and Boyd opposed the amendment.

Mr. Dennis would suggest that gentlemen would not argue against the amendment, as it would not receive five votes in the committee.

George B. Smith did not care how few votes it would receive; it contained his sincere views upon the subject, and he wished the vote taken upon it, which was done accordingly, and the only vote in the affirmative was that of the mover.

The committee rose and reported back the article as amended.—*Express,* Nov. 3, 1846.

FRIDAY, OCTOBER 30, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read.

Mr. Bevans asked leave of absence for Messrs. Cruson and Vineyard. Leave was granted.

Mr. Agry, from the committee on the executive of the state, reported No. 18, "Article on the executive of the state."

"The committee on the executive of the state report for adoption the following articles:

EXECUTIVE

"Section 1. The executive power shall be vested in a governor, who shall hold office for two years; a lieutenant governor shall be elected at the same time and for the same term.

"Section 2. No person, except a citizen of the United States and a qualified elector of this state, shall be eligible to the office of governor, or of lieutenant governor.

"Section 3. The governor and lieutenant governor shall be elected at the time and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant governor shall be elected; but in case two or more shall have an equal and the highest number of votes for governor, or for lieutenant governor, the two houses of the legislature at its next annual session shall forthwith by joint ballot choose one of the said persons so having an equal and the highest number of votes for governor or lieutenant governor. The returns of election for governor and lieutenant governor shall be made in such manner as shall be prescribed by law.

"Section 4. The governor shall be commander-in-chief of the military and naval forces of the state. He shall have power to convene the legislature on extraordinary occasions. He shall communicate by message to the legislature at every session the condition of the state and recommend such matters to them for their consideration as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature and shall take care that the laws are faithfully executed.

"Section 5. The governor shall receive as a compensation for his services annually the sum of one thousand and five hundred dollars, to be paid in equal quarterly payments.

"Section 6. The governor shall have power to grant reprieves and pardons after conviction for all offenses except treason and cases of impeachment. He may commute sentence of death to imprisonment

in a state prison for life. He may grant pardons upon such conditions and with such restrictions and limitations as he may think proper.

Upon convictions for treason he shall have power to suspend the sentence until the case shall be reported to the legislature at its next session. He shall communicate to the legislature by message each such case of reprieve, commutation, and pardon by him granted since the next previous session of the legislature, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date and conditions of the commutation, pardon, or reprieve.

"Section 7. In case of the impeachment of the governor, or his removal from office, death, inability from mental or physical disease, resignation, or absence from the state, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the governor absent or impeached shall return or the disability shall cease. But when the governor shall with the consent of the legislature be out of the state in time of war, at the head of the military force thereof, he shall still continue commander-in-chief of all the military force of the state.

"Section 8. The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If during a vacancy of the office of governor, the lieutenant governor shall be impeached, displaced, resign, die, or from mental or physical disease become incapable of performing his duties, or be absent from the state, the secretary of state shall act as governor until the vacancy shall be filled or the disability shall cease.

"Section 9. The lieutenant governor shall receive four dollars for every day's attendance as president of the senate, and the same mileage as shall be allowed to members of the legislature.

"Section 10. The governor and lieutenant governor or either of them shall not, ex officio, or otherwise, hold any other office of trust, honor, profit, or emolument under this state or the United States, or any other state of the Union, or any foreign state or government.

"Section 11. Every provision in the constitution and laws in relation to the powers and duties of the governor and in relation to acts and duties to be performed by other officers or persons towards him shall be construed to extend to the person administering for the time being the government of the state.

"Section 12. Every bill which shall have passed the legislature shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it, but if not, he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered and if approved by two-thirds of the members present, it shall become a law. But in all cases the votes of both houses shall be determined by yeas and nays, and the names voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not

be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not be a law."

ADMINISTRATIVE

"Section 1. A secretary of state, a treasurer, an auditor, and an attorney general shall be elected at the times and places of choosing governor and lieutenant governor, and shall hold their offices for the term of two years.

"Section 2. The secretary of state shall keep a fair record of the official acts of the legislative and executive departments of the state; and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature; and shall perform such other duties as shall be assigned him by law. He shall receive as a compensation for his services, yearly, the sum of twelve hundred dollars to be paid in equal quarterly payments.

"Section 3. The powers and duties of the treasurer, auditor, and attorney general shall be prescribed by law. Each of said officers shall receive as a compensation for his services, yearly, the sum of one thousand dollars, to be paid in equal quarterly payments.

"Section 4. No officer named in this article shall change, take, or receive to his own use any fees or perquisites in his office. The legislature shall not grant or allow to any such officer any extra compensation under any pretence or in any form whatever.

"Section 5. Any qualified elector shall be eligible to either office created by this article.

Respectfully submitted,
GEO. REED, Chairman"

Which was read the first and second times, referred to the committee of the whole, and ordered to be printed.

Warren Chase, from the select committee to whom a resolution had been referred relative to the amount of real estate to be owned by one individual, made the following report:

"The committee to whom was referred the subject of limiting the amount of land which any individual shall own within this state have instructed me to report:

"That they believe the government traveling out of its legitimate duties when it establishes and fosters a system of exclusive ownership or jurisdiction of the soil.

"That they believe the earth to belong to all mankind, and that each has a natural right to life and to a place [in which] to live.

"That they believe the system as now practiced by the United States government of selling land in unlimited quantities to individuals for speculative purposes to be not only wrong in principle, but very injurious in its operations upon the settlement of the western states and territories.

"That they believe the settlement of this territory to be materially retarded by the large amount of lands owned by nonresidents to the exclusion of many landless citizens.

"That they believe the government not protecting the best interest of the country by allowing individuals to purchase and hold real estate for purposes of speculation to the exclusion of actual settlers who want the same for purposes of cultivation.

"Notwithstanding your committee entertain these opinions, yet they deem it inexpedient at this time to incorporate in the constitution a clause to limit the amount of real estate which any individual may hold within this state while the government of the United States is in the daily practice of selling lands within our borders to individuals in unlimited quantities. Your committee believe the reform should commence with the United States government in the sale of public lands and should then be carried out by this and other states in this [their] constitutions. We therefore report, recommending no article on the subject for adoption in this constitution."

The said report was accepted and the committee discharged from the further consideration of the subject.

Mr. Judd, from the committee on taxation, finance, and the public debt, to whom was referred the resolution relative to the sale of spirituous liquors, reported No. 19, "Article relative to sale of spirituous liquors in this state."

Article on License

"Section 1. The legislature shall have no power to pass any law granting license for the sale of spirituous liquors in this state."

Which was read the first and second times, referred to the committee of the whole, and ordered to be printed.

Warren Chase introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on miscellaneous provisions be instructed to report an article to prohibit any lease of agricultural lands for a longer time than —— years."

John Y. Smith introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on miscellaneous provisions be and hereby are instructed to inquire into the expediency of providing in this constitution that the state shall be liable to civil actions in law and equity in the same manner as individual citizens."

The resolution No. 1., introduced by Geo. B. Smith on yesterday, was then taken up, when Mr. Magone moved that the same be referred to the committee on schools, which was agreed to.

The resolution No. 2., introduced by George B. Smith, relative to the time that laws should continue in force without being reënacted, was taken up, when Asa Kinne moved that the same be laid upon the table, which was agreed to.

The resolution introduced by the same gentleman that "all laws should continue in force only ten years, unless reënacted,"

was next taken up, and Mr. S. proceeded to explain his object in offering, and closed by hoping the resolution might "receive some discussion." On motion of Mr. Asa Kinne it was laid on the table without discussion.—*Express,* Nov. 3, 1846.

The resolution introduced by Mr. Holcombe on yesterday was taken up and adopted. The President announced the appointment of the following committee, to whom said resolution was referred, to wit: Messrs. Holcombe, Baird, Magone, Whiteside, and Hackett.

No. 6, "Article on finance, taxation, and the public debt," was taken up. And the question being on concurring in the amendments reported by the committee of the whole, Mr. Judd called for a division of the question. And the question having been put on concurring in the fifth amendment of the committee of the whole, which was to strike out the first section of the article on taxation and insert the following: "Section 1. All taxes levied upon property in this state at any time shall be in equal ratio to the value thereof, as near as may be, and no capitation or other poll tax shall be levied for highway labor," it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 63, negative 25; for the vote see Appendix I, roll call 48].

The second amendment of the committee of the whole, which was to strike out the second section of said article, was then concurred in.

And the question having been put on concurring in the third amendment of the the committee of the whole,which was striking out the third section of said article, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 50, negative 38; for the vote see Appendix I, roll call 49].

The fourth amendment of the committee of the whole, which was to insert after the word "state" in the fourth line of said article the words "established by law, and supported by any public school fund," was concurred in.

The question then being on concurring in the fifth amendment of the committee of the whole, which was to strike out all after the word "grounds" in the second line of fifth section, to the word "shall" in the same section, when Mr. Huebschmann moved to amend the amendment by inserting in the first line of section 5, after the word "God" the words "and all military halls and houses used by volunteer companies for training and military exercise."

And the question having been put, it was decided in the negative. And a division having been called for, there were 28 in the affirmative, negative not counted.

Mr. Hazen moved to amend the fifth section as reported by the committee of the whole by inserting after the word "occupied" in the first line thereof, the word "exclusively," which was decided in the negative. And a division having been called for, there were 30 in the affirmative and 45 in the negative.

A. Hyatt Smith moved to amend the report of the committee of the whole by inserting before the word "public" in the first line of the fifth section the word "free," which was disagreed to. The amendment of the committee of the whole to the fifth section was then concurred in.

The second division of the said article, being article on finance, was then taken up, and the first and second amendments of the committee of the whole thereto were concurred in.

The third division of the said article, being article on the public debt, was taken up, when Mr. Lovell moved to amend the amendment of the committee of the whole to the second section of the said article by striking out the words "in time of wars to repel invasion, or to suppress insurrection or rebellion, the foregoing provisions of this section shall not be in force," which was agreed to.

The amendment of the committee of the whole to said section as amended was then concurred in.

The amendment of the committee of the whole to the third section of said article, which was to strike out the whole of the original section, was then taken up. And the question having been put on concurring in the said amendment, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 43, negative 49; for the vote see Appendix I, roll call 50].

Mr. Judd moved that the said vote be reconsidered. Mr. Hunkins moved that the said motion be laid on the table, which was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 50, negative 42; for the vote see Appendix I, roll call 51].

The third amendment of the committee of the whole to said article was then taken up, which was to add a new section as follows:

"On the final passage in either house of the legislature of [every] act which imposes, continues, or renews a tax, or creates a debt or charge, or makes, continues, or renews any appropriation of public or trust money or property, or releases, discharges, or commutes any claim or demand of the state, the question shall be taken by ayes and noes, which shall be duly entered on the journals, and three-fifths of all the members elected to either house shall in all such cases be necessary to constitute a quorum therein."

And the question having been put on concurring in the said amendment, it was decided in the affirmative.

The fourth amendment reported by the committee of the whole was then taken up, which was to add a new section as follows:

"Section —. The money arising from any loan made or debt and liability contracted shall be applied to the object specified in the act authorizing such debt or liability, and for no other purpose whatever."

And the question having been put on concurring in the said amendment, it was decided in the affirmative.

The question having been taken on all of the amendments separately, and the whole report being before the convention and open for amend-

ment, Mr. Judd moved to amend by striking out the whole article on taxation.

Mr. Ryan moved to amend by striking out the third section and inserting the following as a substitute therefor: "Section 3. The legislature shall have power to exempt from taxation all houses erected and occupied for the public worship of God and all public burying grounds and all property of the state."

Which was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 24, negative 67; for the vote see Appendix I, roll call 52].

John Y. Smith moved to amend the first section of said article by striking out all after the word "all" and inserting the following: "Taxes, excepting poll taxes for highway labor in the state, shall be levied upon property indiscriminately and shall be as nearly equal in proportion to the value thereof as may be: *Provided*, That the legislature shall have power to exempt from taxation such public property as they may deem expedient."

Mr. Goodell moved that the further consideration of said article be postponed until Tuesday next, and that it be made the special order of the day for that day, and be printed, which was disagreed to.

The question then recurred on the amendment of John Y. Smith. And having been put, it was decided in the negative.

Mr. Elmore moved that the convention adjourn, which was disagreed to.

Mr. Magone moved that the further consideration of said article be postponed until two o'clock, P. M., which was [dis]agreed to. And a division having been called for, there were 32 in the affirmative, negative not counted.

Mr. Hays moved to amend the said article by striking out all after the first section, which was disagreed to.

The question recurred on the motion of Mr. Judd to strike out the whole article. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 48, negative 37; for the vote see Appendix I, roll call 53].

On motion of Mr. Whiteside the convention took a recess until two o'clock, P. M.

The convention then took up the report of the committee of the whole on article No. 6, on taxation, finance, and the public debt.

The amendments to the original article adopted in committee of the whole were taken up singly and underwent a close and discriminating scrutiny; many amendments to the amendments were offered, most of which failed, and some few adopted.

The ayes and noes were called on striking out the section in the article on taxation to exempt the property of the state from taxation and resulted in ayes 50, noes 38.

The articles as amended were then taken up in their order, the whole being open to amendment. The first was the article on taxation.

Mr. Judd objected strenuously to the amendments which had been adopted, and, notwithstanding the peculiar position he stood [in] in relation to this article, felt impelled to move that the whole article be stricken out, and the matter left to future legislatures.

Mr. Ryan had an amendment to the article, which took precedence over the motion to strike out the whole article. It was to strike out the fifth section of the article and insert another in its stead, which merely confirmed the power of the legislature to exempt churches, state property, etc., from taxation. The amendment was lost—ayes 25, noes 65.

The question was then taken upon Mr. Judd's motion to strike out the whole article and was carried, ayes 48, noes 37.

The convention adjourned to two o'clock.—*Express*, Nov. 3, 1846.

TWO O'CLOCK, P. M.

Mr. Lovell moved to amend the first section of the article on public debt by inserting after the word "except" the words "to defend the state in time of war, to repel invasion, or to suppress insurrection and rebellion, and," which was agreed to.

Mr. Gray moved to amend the third section by inserting after the word "therein" in the fifth line, the words "*Provided*, That any debt so contracted shall not exceed in amount the value of all the lands that remain unsold, that has or may be appropriated by any act or acts of Congress for purposes of internal improvements in this state," which was decided in the affirmative.

Mr. Ryan moved to amend the third section by inserting between the word "shall" and the word "at," in the sixth line, the words, "have been passed by two successive legislatures, by a majority of all the members elected of each house, respectively, to be ascertained by yeas and nays, to be recorded on the journal of each house, nor until it shall."

Mr. Judd moved to amend the amendment by striking out all after the word "have" in the first line and inserting the words "pass two successive sessions of the legislature of this state, and shall have been

submitted at a general election.'' And the question having been put on the said amendment, it was decided in the negative.

The question then recurred on the amendment of Mr. Ryan, and having been put, it was decided in the affirmative.

And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 61, negative 24; for the vote see Appendix I, roll call 54].

Mr. Ryan moved further to amend the third section by striking out the words ''upon that subject'' in the last line of the first paragraph and inserting instead thereof the following:

''Every law authorizing any public debt under this section shall establish an annual tax sufficient to pay the interest of such debt, to be levied annually until such debt shall be discharged; and also a tax sufficient to pay the principal of such debt within twenty years; and specially appropriate such taxes to the payment of such principal and interest; and such appropriation shall not be repealed nor such taxes repealed, postponed, or diminished until such debt shall be wholly discharged.''

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 13, negative 75; for the vote see Appendix I, roll call 55].

Mr. Ryan moved further to amend the third section by striking out the words ''upon that subject'' in the last line of the first paragraph, which was decided in the negative.

Mr. Elmore moved to amend the third section by striking out all after the word ''state'' where it first occurs in the section, which was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 43, negative 47; for the vote see Appendix I, roll call 56].

A. Hyatt Smith moved to amend by striking out the whole of the third section.

Mr. Tweedy moved a call of the house, which was ordered, and Messrs. Agry, Bowker, Clark, Kern, Mills, [Phelps, Prentiss, Reed, and Soper reported absent. Messrs. Kern, Mills,] and Clark were excused from their attendance in the convention. Mr. Dennis moved that all further proceedings under the call be dispensed with, several of the absentees having appeared in their seats, which was decided in the affirmative. And a division having been called for, there were 43 in the affirmative and 34 in the negative.

The question was then put on the amendment of A. Hyatt Smith and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 48, negative 51; for the vote see Appendix I, roll call 57].

Mr. Tweedy moved to amend the third section by inserting after the word ''subject'' the words ''provided that the aggregate of all debts so contracted for any object shall not at any time exceed the value of the lands appropriated for such object, then remaining unsold, estimating the same at one dollar per acre, and provided that the proceeds

of all such lands, when sold, shall be applied to the payment of the debts so contracted."

Marshall M. Strong moved to amend the amendment by striking out the words "one dollar" and inserting the words "fifty cents" in lieu thereof.

And the question having been put on the said amendment, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 47, negative 49; for the votes see Appendix I, roll call 58].

Mr. O'Connor moved to amend the amendment by striking out the words "one dollar" and inserting the words "seventy-five cents" in lieu thereof, which was accepted by Mr. Tweedy as a modification to his amendment. And the question having been put on the said amendment, as modified, it was decided in the affirmative.

Mr. Tweedy moved further to amend by adding the following additional section, to wit: "Sec. — The avails of all lands which have been or shall hereafter be ceded by the United States to the territory or state of Wisconsin for the purpose of internal improvement and so much of the net proceeds of the public lands lying within this state as shall be hereafter paid to this state by the United States for the purpose of making public roads and canals in this state shall be appropriated to the purposes for which the same shall have been granted by Congress, and no portion of such property or fund, or of the revenues thereof, shall ever be loaned, borrowed, or used by this state for any other purpose whatever.

And pending the question on said amendment, on motion of Mr. Steele the convention adjourned.

SATURDAY, OCTOBER 31, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

A. Hyatt Smith presented the contract of A. A. Bird with the superintendent of territorial property for preparing the room for the use of this convention, which was on his motion referred to the committee on the expenses of the convention.

Mr. A. Hyatt Smith presented the account of A. A. Bird for repairs of the room occupied by the convention and stated that Mr. Bird had been obliged to pledge a large amount of personal property to obtain the requisite funds to complete his contract, which pledge would expire on the fifth day of November, and petitioned that the account might be audited and paid previous to that day. Referred to committee on expenses.—*Express,* Nov. 3, 1846.

The President laid before the convention the report of the clerk of the district court of Green County and the Secretary that of the clerk of the district court of Iowa County in answer to a resolution of this convention, which was read.

Mr. Noggle introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on education, schools, and school funds be instructed to report an article donating to the common school fund all the lands heretofore appropriated or hereafter to be appropriated and not otherwise disposed of by Congress by law."

Mr. Reed introduced the following resolution, which was read, to wit: "*Resolved,* That a select committee of five be appointed by the president to take into consideration the subject of any grant or grants of lands which have heretofore been or may hereafter be tendered or made to this state to aid in the construction of any work or works of internal improvements, and to report an article prescribing the powers of the legislature upon the same."

Mr. Dennis asked that leave of absence be granted to Mr. Rogan, which was agreed to.

Mr. Magone introduced the following resolution, which was read, to wit: "*Resolved,* That members who absent themselves without leave of absence or a reasonable excuse during the sitting of the convention shall for each day so absent be fined in a sum not less than —— dollars."

Resolution No. 1 of yesterday was then taken up, when Mr. Burchard moved that said resolution be indefinitely postponed.

Nathaniel F. Hyer moved that said resolution be referred to the committee on miscellaneous provisions not embraced in the subjects committed to other committees.

The President decided that under the rules the last motion would be first in order. And the question having been put on said motion, it was decided in the affirmative.

Resolution No. 2 of yesterday was then taken up and adopted.

No. 6, "Article on taxation, finance, and the public debt," was then taken up, when Mr. Ryan moved that the said article, together with Nos. 5 and 7, be referred to a special committee of seven, to report the same back with instructions to inquire into the expediency of remodeling the same on the following principles:

First. Power to the legislature to pass special acts of incorporation for internal improvements.

Second. The state to be restricted to such works of internal improvements as grants are made in aid of, but no power to contract any debt or liability.

Third. All lands not specially dedicated to be added to the school funds.

Mr. Hicks moved that said articles be postponed until one week from Monday next, and that they be made the special order of the day for that day, which was disagreed to.

Mr. Randall moved to amend the motion of Mr. Ryan by adding "and that said report be printed and made the special order of the day for Monday, the ninth day of November next."

Mr. Bevans moved to amend the amendment by striking out all after the word "printed," which was agreed to.

The question was then put on the adoption of the amendment as amended and was decided in the affirmative.

The motion of Mr. Ryan as amended was then agreed to.

The convention then took up for consideration the article on finance and public debt.

Mr. Tweedy rose and said that this was a very important subject and required a careful investigation. There were some points that we were not now prepared to decide upon. Time for consideration and investigation was necessary. There were several amendments as well as his own pending, and many more that would be offered. It was not material to him whether it was postponed or referred to a select committee. He moved that the report with the amendments and the article on internal improvements be postponed and made the special order of the day for ———— November.

After some discussion the motion was withdrawn.

Mr. Ryan, after some remarks in which he stated the unanimity of the convention on the leading principles that should be embodied in this article, moved its reference, together with the report on municipal corporations, to a select committee with instructions.—*Democrat,* Nov. 7, 1846.

Mr. Giddings, by leave, introduced the following resolution, which was read, to wit: "*Resolved,* That the following be inserted as an article or section in the constitution of this state:

"That all moneys arising from the sale of the lands which have or may be given to this state for the purpose of internal improvements except such as are given for a specific purpose, and the five per centum arising from the sale of the public lands shall be apportioned by the legislature among the several counties in this state in the following manner, and no other: One-half thereof shall be distributed among the several counties, giving each county an equal sum, the other half to be distributed among the several counties in proportion to the population therein, to be ascertained by the census last taken before such distribution, the moneys to be used by each county for internal improvements therein in such manner as the inhabitants may direct."

Mr. Steele, from the committee on miscellaneous provisions, reported No. 20, "Article to abolish death as a capital punishment." "*Resolved,* That taking life, either by hanging or otherwise, shall never be instituted as a mode of punishment for crime in this state."

"The committee to whom was referred the resolution relative to the death penalty as a capital punishment in the state of Wisconsin report and submit the following as some of the principal reasons which induce them to submit the article hereto annexed, as the result of their deliberations:

"The subject of the death penalty as a capital punishment has been much mooted for several years past and is in the opinion of the committee well understood by the community in general. We do not, therefore, propose to argue the question at length, but merely to state to this convention our united opinions in a short and succinct method.

"It is a well-known fact that the death penalty is one of the last relics of the barbarous ages which is recognized by an enlightened community in their institutions of government. Another fact too well established to admit of contradiction is that it falls with its blighting and crushing power as well upon the innocent as the guilty.

"That being admitted, the question then is, Should a law be enacted or recognized which should in itself be unjust in its practical operation to an individual or should jeopardize the life of an innocent member of the community? It is a rule of divine law that it is better that ninety and nine guilty persons should escape rather than one innocent one should perish. Admitting then for the argument that the murderer deserves death, yet is it not better that he should not have meted out to him his full deserts, but that he should be restrained of his liberty, than that one innocent human being should be deprived of that

which we cannot restore—of his life? That these and the like considerations have operated upon the minds of the community to a great extent cannot be denied, and that so forcibly that many actually guilty of the most heinous offenses which by the existing laws of the land are punishable with death are acquitted upon some trivial pretext, upon some collateral issue raised by the ingenuity of counsel, and are allowed to go at large in the community, an indisputable evidence to the vicious and evil minded that the greater the offense and the corresponding punishment, the more sure are they to escape its penalties.

"It is urged that the murderer has forfeited his life by taking that of his fellow being, but in answer it can be asked, Is life to be restored to the murdered by taking that of the murderer? Or does any good accrue to the friends of the deceased? Or is community more certainly rid of him than if immured for life?

"We are aware that nearly all convictions for murder are of necessity founded upon circumstantial evidence; and notwithstanding the great repugnance to convict, when death is the penalty, yet many cases have occurred where the circumstances are so strong and apparently conclusive that a conviction is not to be avoided (as the innocent will never resort to the plea of insanity, or any other of those frivolous pretexts to avoid conviction) when time shows clearly that the verdict was erroneous—that the convict was innocent, entirely innocent, when too late to avail him anything. He has suffered the death penalty, due by our laws only to the worst of felons. The uncertainty, then, of a conviction on account of collateral issues, where the evidence is clear and positive, and the uncertainty of the guilt of the convict upon circumstantial evidence is conclusive to the minds of the committee that the death penalty should be abolished and forever discountenanced as a feature of our code of laws, and it is conceived likewise that executions have a tendency to harden those who witness and participate in them rather than a beneficial tendency to overawe the community at the spectacle, and that habitual use to such sights but tends to render a person hard and callous and properly fitted for any crime. It is our opinion then that the end required by the community, the protection of their lives from the hands of the murderer and the assassin, is more surely attained by the adoption of the article herewith submitted than by the retention of the death penalty as a capital punishment, and that the terrors of a close and solitary confinement, without the hope of pardon, reprieve, or escape, will be the most effectual to restrain vice.

"That the death penalty fails in this great object cannot be denied, and for proof we have but to look at any community, state, or country where it is inflicted and see how frequently it is avoided, how totally disregarded, and how frequent the commission of capital crimes, the more so where the spectacle of a public execution is the oftenest presented. Holding these views and sincerely believing that the com-

munity we represent hold corresponding opinions, we respectfully submit the following article.

E. Steele, Chairman
J. D. Doty
W. Chase
Davis Bowen

"Section 1. Death as a penalty is forever prohibited within the limits of this state.

"Section 2. The legislature shall in all cases where the death penalty is ordinarily inflicted impose, instead thereof, close and solitary confinement for life in the state's prison, without the power of pardon, reprieve, or commutation.

E. Steele, Chairman
J. D. Doty
W. Chase"

Which was read the first and second times, referred to the committee of the whole, and ordered printed.

Mr. Ryan moved to adjourn, which was disagreed to. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 25, negative 63; for the vote see Appendix I, roll call 59].

Nathaniel F. Hyer moved that the convention adjourn, which was disagreed to.

The convention then resolved itself into committee of the whole for the consideration of No. 8, "Article on amendments and revision," John Y. Smith in the chair. And after some time spent therein the committee rose and by their chairman reported the said article back to the convention with amendments.

In committee of the whole Mr. Ryan, with one word, of course, offered a verbal amendment to the report, which was adopted.

W. R. Smith offered an amendment to the effect that amendments to the constitution should be submitted to the people "in such manner as the legislature shall provide."

Mr. Magone moved that the committee rise and report the article back to the convention with the amendments adopted, observing that if the subject should be discussed in committee for a week, the whole would be again discussed in convention. The motion prevailed and the committee rose and reported.—*Express,* Nov. 3, 1846.

And the question being on concurring in the report of the committee, a division of the question was called for. And the question having been put on concurring in the first amendment reported by the com-

mittee, which was to amend the first section by striking out the word "thereon" in the ninth printed line, and inserting, instead, the words "at such election," it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 34, negative 51; for the vote see Appendix I, roll call 60].

And the question having been put on concurring in the second amendment of the committee of the whole, which was to insert after the word "election" in the seventh line of the printed bill the words "in such manner as the legislature shall prescribe," it was decided in the affirmative.

The report of the committee of the whole having been gone through with, and the whole article being before the convention and open for amendment, Mr. Randall moved to amend the first section by inserting after the word "legislature" in the second line of the printed bill the words, "once in every three years after the adoption of this constitution."

Asa Kinne called for the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on the adoption of the amendment of Mr. Randall and was decided in the negative. The said article was then ordered to be engrossed for a third reading.

The President announced the appointment of the following committee, to whom articles Nos. 5, 6, and 7 had been referred, to wit: Messrs. Ryan, William R. Smith, Noggle, Tweedy, Parks, Berry, and Doty.

Mr. Randall asked leave, which was refused, to offer a resolution, the purport of which was that the clerk of the supreme court should be called upon to administer an oath to each member of the convention to perform the duties for which they were elected to the exclusion of all mere personal feelings or prejudices, and also to support the Constitution of the United States.—*Express,* Nov. 3, 1846.

Mr. Ryan moved that the convention adjourn, which was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 12, negative 73; for the vote see Appendix I, roll call 61].

On motion of Mr. Edgerton the convention adjourned until two o'clock, P. M.

TWO O'CLOCK P. M.

William R. Smith, by leave, introduced the following resolution:

"Resolved, That certificates of mileage, signed by the president and attested by the secretary, be issued to each member of the convention;

and that the territorial treasurer be authorized to pay the same out of the fund appropriated by law for defraying the expenses of the convention, and on production of said certificates by the said treasurer the amount of the same shall be allowed to him as a credit against any moneys in his hands, appropriated as aforesaid, on the final adjustment of his accounts in relation to the said fund."

And the question having been put on the adoption of the said resolution, it was decided in the affirmative.

Mr. Dennis, from the committee on expenses, who were directed by a resolution of this convention to ascertain and report the amount due the members of the convention for mileage, made the following report:

"The select committee on the expenses of the convention, to whom was referred the mileage of delegates, ask leave to make the following report and recommend that the following sums set opposite their respective names be allowed respectively for mileage, to wit:" [The statement of amounts allowed is omitted, as having no interest at this time.]

Mr. Elmore moved that the mileage of Mr. Ellis, reported by the committee at "100 miles," be changed to "80," which was disagreed to.

Mr. Elmore then moved that said report be indefinitely postponed, which was disagreed to.

Mr. Phelps moved that no script [scrip] or evidence of mileage be issued to the absent members until they shall severally give in the number of miles they have traveled, which was disagreed to.

The report of the committee was then adopted.

The convention then resolved itself into committee of the whole for the consideration of the report of the select committee relative to the collection of debts, Mr. Magone in the chair. And after some time spent therein rose and by their chairman reported the same back to the convention without amendment.

ON ABOLISHING LAWS FOR THE COLLECTION OF DEBTS

(Speech of Gen. John Crawford, in committee of the whole, October 31, 1846)

Mr. Chairman: In supporting this report I may speak of lawyers; if so, I may be accused of making use of low and nasty language. I have no disposition to say anything against any individual, but in speaking of the profession some members of it may fly in my hair; if so I have a fine tooth comb and can separate them.

In support of this report I beg leave to say that I have not been able to get hold of a comparative statement of the costs made or the amount of damage collected upon debts in any

place—if I was able to procure such a statistical account of the United States, or of any of the separate states, or of this territory, I am certain it would astonish every member of this body.

There was a motion made the other day by a gentleman from Dane the object of which was to procure the required information, but no sooner was the motion made than it was violently opposed by some of the professional gentlemen here, as useless information, attended with unnecessary expense—that the people did not need the information here sought. It was laid on the table.

The motion or resolution above mentioned was again called up a few days after, but it no sooner came before the convention than some of the practicing lawyers upon this floor mounted it roughshod. They were afraid to have the information required go before the people. On the final vote being taken the ayes and noes were called for and there were but a very few of the professional gentlemen belonging to this Tadpole party, as I shall call it, that had the courage to oppose it when they found their votes were to be recorded on the journal.

In their opposition to that I was not disappointed. I expected it from that source, for their business is to keep the people in the dark respecting that important information. It is for their interest to do so.

I remember, sir, when the laws of the state of New York would for a debt of twenty-five cents or any small debt throw a poor debtor into jail and incarcerate his body in prison, a measure that was urged on and encouraged by the profession of the law. But, sir, the story is not yet half told; there was no provision made to furnish that man with anything to subsist on. However strange that may appear I call upon gentlemen of the profession here, that are learned in the law, to deny the fact. The same gentlemen, or gentlemen of the same profession, that were feasting upon that "glorious law," as they called it, were violently opposed to its repeal, and now are proclaiming long and loud upon this floor in favor of pains and penalties, and denouncing me and every other man that sees fit to act as he pleases (a privilege he has) as "softs," "tad-

poles,'' and many other names, not ''hard'' ones, for they reserve that name to themselves.

That hard law before mentioned was repealed or modified at last, but not until the farmers and mechanics and hard-fisted democracy raised their voices against it and were powerful enough to put their feet upon the necks of those professors themselves (whom I call ''tadpoles''), and have held them in the mud ever since. But, sir, I discover they are amphibious, for they are showing their heads now upon this floor.

On the final passage of this article I shall call for the ayes and noes—I will see who is hard and who is soft—I will see who comes up to the scratch. Any gentlemen that will oppose this article ought to be called ''hard.'' We will see who practices what he professes.

After that law was modified the poor debtor was allowed a certain piece of ground to walk over; and I am happy to say that the time did arrive, some fifteen or twenty years ago, in the same state, that the nonimprisonment law was passed.

And where did we find these same ''tadpoles'' then? Why, sir, they struggled and kicked and made the mud fly wonderfully, but their nature was such they did not die.

They may call me a ''soft,'' a ''tadpole,'' a ''crawfish,'' an ''old hunker,'' a ''barnburner,'' or, if they please, a ''sawmill''; it will make no difference with me; it will not swerve me from doing what I believe to be my duty to my constituents. I dislike, Mr. Chairman, to hear professed Democrats upon this floor, of five years old, denounce me as a ''soft.'' Sir, I defy any gentleman upon the floor of this house to put a finger upon a spot upon my political character but what is Democratic. If they can, I will call it a grease spot, and any newborn Democrat may take this last remark to himself if he pleases. I came here, sir, to help form a constitution for the people—the whole people, and nothing but the people—Whigs and all, although I do not expect the Whigs will accept of my labor. That will make no difference with me in doing my duty. I did not come here, sir, to get myself transmogrified from a member of this convention to a United States senator, or a supreme judge, or any other such kind of an animal. I don't

understand the operation and have no disposition to learn, although I have learnt some of the first principles of it since I have been here. I am the man, sir, that is ready and proud to stand in my place upon this floor and advocate any measure that I consider highly beneficial to the honest poor man, and if this article is engrafted in the constitution I am certain it will operate in his favor.

Now, sir, in support of this report I have to remark that I would ask any gentleman upon this floor (if there are any such) who penetrated the western country ahead of the law, whether they did or did not do business to a better advantage and with less loss to themselves than they did after the law overtook them.

And again, sir, it is said by some that if a poor man should come into town with a large family, very destitute, if this article should be adopted, he could not possibly get any assistance for his family, although they should be nearly suffering.

Of them I would ask if that poor man could get accommodations any sooner if there was a law to compel him to pay than he could if there was none?

And I would again ask those gentlemen who settled in this territory before there was any law (for I believe there are some such) if they ever knew a poor man, with or without a family, who was suffering for assistance, whom they would not credit as soon before the law overtook them as they would after they had a law to compel that man to pay.

I find, sir, that our laws are growing more liberal every year. The tyrannical law above cited, of imprisonment for debt, was followed by the nonimprisonment law in that state and many others, and laws are enacted almost every year in some of the states extending the exemption of property of the poor unfortunate debtor from that barbarous practice, execution. This last word reminds me of what an old friend of mine once said when asked what word impressed the hardest upon his mind of any he ever heard uttered. His answer was—"for the want thereof take the body." That was the language of executions once in that state—New York—but thank God, it is not so now. I say, "Thank God!" but not the professors of the

law! Sir, I care not how severe laws we have to operate against the fraudulent debtor; but the action should be for fraud. I am not for abolishing laws of that nature. There is not distinction enough by our present laws between the honest and fraudulent debtor.

There was a move made in this body the other day by one of the pains and penalties or high-pressure-system gentlemen to gag down many members of this house by limiting the debate to a certain day and hour upon the suffrage article, they being a little more ready to speak than others; the object, as it appeared to me, was to get the floor and talk until the specified time had arrived, and then the common sense gentlemen of this convention would be debarred from speaking upon that important article. You might infer from this, Mr. Chairman, that those high-pressure gentlemen had not common sense. That question I will leave for the rest of the members of the convention to decide upon.

Those high-pressure, self-styled Democrats whom I have called "tadpoles"—I beg pardon, for the name did not originate with me—I see they have been blowing off steam, and crawfish in regard to pains and penalties, and it was a very wise operation, for if they had not, I think they might have burst their boilers.

If this article is engrafted in the constitution, it will have a tendency to check the credit system, which, as I said the other day, is a curse to the debtor and creditor both.

My views upon this subject are if a man can get credit as much as he pleases, there is many a man that will get in debt for many articles that he could get along very well without. For instance he would run in debt for a purse when he had not one cent to put in it. There is another thing, Mr. Chairman, in favor of this article. If a wealthy man having a great many men indebted to him should be a candidate for office, which often happens, many of these men would dislike to oppose their creditor, although their feelings would teach them to do so. In that manner the credit system corrupts the ballot box.

It has been argued upon this floor by professors of the law, too (for no other gentleman can get a chance to say much), that

the viva voce system of voting was bad in this particular—where a man of wealth and doing a large business had in his employ a great many poor laborers, they would not vote with that independence which they would if they could vote by ballot. The same argument would apply equally strong against the credit system, and I think with greater force.

When the nonimprisonment law was passed in the state of New York, the excitement was far greater among the professors of the law than it is now respecting the report. They rang the alarm bells from one end of the country to the other, proclaiming that the country was ruined, and would never recover from the shock; and you hear the same croakings now against this report from the same quarter. It is surprising, Mr. Chairman, to witness the march of mind in our favored country toward liberal principles—for the relief of the honest poor man and equal rights.

You will notice that I have arrayed the profession generally against the principles here advocated by me; but I think there should be some exceptions, for there are many amongst them that profess to be friendly to liberal principles but I fear they have some demagogism about them. To show the march of liberal principles, I do not believe there is now a gentleman upon this floor that would wish to see the old law of imprisonment for debt established again; and in my mind the principle here advocated by me will do as much good and be as favorably thought of in twenty years from this time as the nonimprisonment law is now. But then I shall most likely be no more, if I die in any kind of season. But I fear, sir, that I am trespassing upon the patience of the committee.

(Cries of "Go on—Go on," from all sides of the house.)

Although I am digressing from the subject, allow me to say, I do most sincerely believe, that if we had not more than half as many lawyers in this convention as there are we should progress with our business a great deal faster than we now do, and we should do it full as well. We want a plain, common sense constitution, and we have plenty of men in this honorable body that are capable of framing just such a constitution as the people want without having lawyers rising here in

their places and talking day after day for buncombe and trying to instruct us how to act. I may be wrong, but it does most certainly look to me as though they wished to make the instrument as complicated as possible; and further, these same gentlemen or some of them consume a great deal of time almost every day in discussing questions of order—they understanding parliamentary usages better than some of us, although they disagree among themselves. And again, I must say I cannot but believe that these same gentlemen have a design to procrastinate the business of our session and throw many obstacles in our way and at the same time proclaim to the world that they wish to have a short session. I claim the right to speak my mind upon this floor. This will not apply to anyone unless it fits. I have no right, Mr. Chairman, nor have I any desire to gag any men or set of men; but when I see gentlemen here arguing questions over and over again and recapitulating the same language, if I cannot question their right, I claim the privilege of saying that they are trespassing upon my constituents, and I think they will not thank them for it, and I know I shall not. I have no desire to make myself conspicuous nor ridiculous upon this floor, but I most certainly have a desire to bring our labors to a close as soon as we can, without any unnecessary delay. My constituents expect it. I have no desire to impute any bad motives to any gentlemen, but it is my strong conviction that there is an undercurrent moving here from which there will flow no good to my constituents or the community at large. I hope I am wrong. Some gentlemen in their arguments travel across the Atlantic to get information to instruct us how to frame our constitution. Sir, I want no advice or any instruction from any king, prince, or potentate of the earth to teach me how to form a constitution for this state. We can make one for ourselves, and if it is not a good one, I have no desire to blame any crowned head for it. Thanks to our forefathers, we have no crowned heads nor lords in this country except the Lord God.

I was conversing a few days since with a sheriff of a county in this territory, who told me that he knew positively that the costs of collecting debts in his county in the courts of record

for the past year was over four times as much as judgments recovered for damage, and the most of that could not be collected on execution. That, sir, is a fine picture to look at—a fine business for people to feast upon who are determined to get a living without work. And I firmly believe that there is not a gentleman in this room but would say, if he would speak his mind, that the collection laws, when used by them, were a damage to them.

Mr. Chairman, if in speaking of lawyers I am to be accused of descending to low epithets, the fault is not with me; I have to descend to low grounds to reach the object of my search. The other names that I have stooped to did not originate with me, however low they may appear. I learned them from gentlemen upon this floor who profess not to stoop to low epithets.

In conclusion, if gentlemen view this report as I do, I am certain they will give it their hearty support. I have got through.

Mr. Hunkins said that as it was usual in legislative bodies on the death of a member to adjourn in respect to the deceased, and as several of the members had just been laid out, he moved that the committee rise for the purpose of adjourning the convention.—*Democrat,* Nov. 7, 1846.

Mr. Elmore moved that said report be made the special order of the day for next Saturday afternoon, which was decided in the affirmative. And a division having been called for, there were 39 in the affirmative and 27 in the negative.

Mr. Hunkins moved that the convention adjourn, which was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 26, negative 56; for the vote see Appendix I, roll call 62].

Mr. Magone presented the account of J. Gillet Knapp for money advanced for lumber to repair the convention chamber, which was on his motion referred to the committee on the expenses of the convention.

On motion, the convention adjourned.

Monday, November 2, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read.

Mr. Dennis moved to amend the report of the committee on mileage of members by striking out the number "100" in the mileage allowed to Mr. Wilson, and inserting "137," which was agreed to.

Leave of absence was asked for and granted to members of this convention as follows: by Marshall M. Strong, for Messrs. Parsons and Kellogg; by Mr. Parks, for Mr. Reed; by Mr. Parkinson, for Mr. Burnside.

Mr. Phelps presented the account of Darwin Clark for desks furnished for the use of this convention, which on his motion was referred to the committee on the expenses of this convention.

Marshall M. Strong, from the committee on engrossment, reported No. 8. "Article on amendments and revision," as correctly engrossed.

Moses M. Strong introduced the following resolution, to wit: "*Resolved,* That a committee of five be appointed to inquire and report the rate of compensation suitable to be allowed and paid to the several officers of this convention." And the rules having been first suspended for that purpose, the said resolution was taken up and adopted.

The President announced the appointment of the following committee under said resolution, to wit: Messrs. Moses M. Strong, Wm. M. Dennis, A. Hyatt Smith, Sewell Smith, and Phelps.

Mr. Hackett introduced the following resolution, which was read, to wit: "*Resolved,* That each member of this convention shall be entitled to a per diem allowance for the number of days only that he may be actually in attendance at the capitol."

Mr. Meeker introduced the following resolution which was read, to wit: "*Resolved,* That the treasurer be directed to pay the individual members of this convention their per diem allowance, at such times as they may call for it, not exceeding in amount what may be due at the time called for, he taking a receipt for the amount paid; such receipt shall be a voucher for the treasurer in the settlement of his accounts."

Mr. Randall introduced the following resolution, which was read, to wit: "*Resolved,* That on Monday, the ninth day of November next, the clerk of the supreme court be called upon to administer an oath to each of the members of this convention, as follows: 'You do solemnly swear that laying aside all personal and political preferences and prejudices you will faithfully and impartially perform all the duties devolving upon you as a member of this convention, and that you will support the Constitution of the United States.' "

The resolution introduced on Saturday, relative to the common school fund, was taken up and adopted.

J. Allen Barber introduced the following resolution, which was read, to wit: "*Resolved*, That Monday, the twenty-third day of November, be agreed upon as the time for the final adjournment of this convention."

Resolutions Nos. 2 and 4 of Saturday last were taken up, and on motion referred to the select committee to which articles Nos. 5, 6, and 7 were referred.

Resolution No. 3 of Saturday last was taken up, when Mr. Magone asked and obtained leave to withdraw the same.

No. 8, "Article on amendments and revision," was taken up and read the third time, when Moses M. Strong moved that the said article be committed to the committee on amendments to the constitution with instructions to amend the first section so as to provide that before any amendments to the constitution shall be submitted to the people the same shall be agreed to by two-thirds of the members elected to each of the two houses of the legislature at two consecutive annual sessions."

The article on amendments and revision was taken up and underwent its third reading.

Moses M. Strong would delay the business of the convention by stating how he "should" have voted upon several articles which had been passed during his absence. He would have voted against that part of the article on internal improvements authorizing the state to contract any debt whatever. He would also have voted against the adoption of the article on the militia. The article now under consideration made it too easy to amend the constitution, and he would have voted for striking out the first section of the article, and he now moved its recommittal to the committee who reported it, with directions to amend the first section, which motion was lost.—*Express*, Nov. 10, 1846.

And the question having been put on said motion, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 20, negative 68; for the vote see Appendix I, roll call 63].

And the question having been put on the passage of the said article, it was decided in the affirmative. And the ayes and noes having been called under the rule, those who voted in the affirmative were [affirmative 73, negative 15; for the vote see Appendix I, roll call 64].

No. 10, "Article on the constitution and organization of the legislature," was then taken up, when Marshall M. Strong moved that the said article be referred to the same committee of the whole, to which the article to be reported by the committee "on the powers, duties, and

restrictions of the legislature'' will be referred, which was agreed to.

The convention then resolved itself into committee of the whole for the consideration of No. 12, ''Article on organization and officers of counties and towns and their powers and duties,'' Moses M. Strong in the chair. And after some time spent therein the committee rose and reported the said article back to the convention with amendments.

The first section was taken up and adopted without amendment.

The second section was then taken up, and Messrs. A. Hyatt Smith and Baird offered amendments, which were lost.

Mr. Tweedy moved to strike out the portion of the section which specified to be chosen by the electors of the counties every two years, and insert ''All officers whose election or appointment is not otherwise provided for in this constitution shall be chosen by the electors of the respective counties as often as once in every two years''; which amendment carried.

Mr. Hicks offered an amendment, which was to strike out the clause of the section which rendered sheriffs ineligible for the next two years after the termination of their office and argued that the people would thereby be prevented from electing to this office the man of their choice because he had already served them in the same capacity.

General Smith and Mr. Randall opposed the resolution, and J. Allen Barber advocated it.

Mr. Bevans moved, as an amendment, to provide that when the emoluments exceed $2,500 the excess should be paid into the county treasury, which was lost.

Mr. Gibson offered an amendment, which was to strike out the whole section, and said if this section was so disposed of, the succeeding section would effect the object in view and leave the details to the legislature. The question on striking out was put and carried.

Mr. Lovell then moved to supply the place of the section stricken out with the following: ''The legislature may confer upon the several county boards such local legislative and administrative powers as they shall from time to time prescribe,'' which was adopted.

On motion, the committee then rose and reported the article back to the convention with this alteration in the second section.—*Express,* Nov. 10, 1846.

And the question having been put on concurring in the amendments reported by the committee of the whole, it was decided in the affirmative.

Mr. Gray moved to amend the first section of the article by striking out the words "town and," which was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 18, negative 67; for the vote see Appendix I, roll call 65].

Marshall M. Strong moved to amend the article by striking out the first section. And pending the question on said amendment, on motion of Mr. Burchard the convention adjourned until two o'clock, P. M.

TWO O'CLOCK, P. M.

Mr. Dennis, from the committee on the expenses of the convention, by leave made the following report:

"The committee on the expenses of the convention, to whom was referred the claims of Augustus A. Bird for services in fitting up the room for the convention, ask leave to make the following report:

"That they have had the same under consideration and recommend the adoption of the following resolution, to wit: '*Resolved,* That the sum of $500 be and the same is hereby appropriated to Augustus A. Bird as payment in full of a contract entered into between the superintendent of territorial property and said Bird for fitting up the room for this convention; and that the treasurer of this territory be and he is hereby authorized and directed to pay the same.' "

The report was accepted and the committee discharged from the further consideration of the subject.

No. 12, "Article on the organization and officers of counties and towns, and their powers and duties," was taken up, and the question having been put on the amendment of Marshall M. Strong, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 17, negative 72; for the vote see Appendix I, roll call 66].

The motion of Marshall M. Strong to strike out the first section was taken up and discussed at considerable length. The question at issue was, Shall we have a uniform system of county and township government, or a different system in operation in every county in the state? Mr. Baird ably and successfully (as will be seen) advocated the uniform system.

Mr. Ryan would merely detain the convention long enough to say one word upon this subject. He would vote for retaining the section because it was a fixed fact that we were to have a uniform system, and inasmuch as such was a fixed fact, he wanted to see the fact fixed where it would stay fixed.

The question was taken upon the motion to strike out, and it was rejected.—*Express,* Nov. 10, 1846.

Mr. Ryan moved to amend the second section by striking out all after the word "legislature" in the first line, and inserting as follows: "shall, as soon as convenient after the adoption of this constitution, organize the several boards of supervisors of the several counties so as to represent equal population as nearly as practicable, and shall confer upon the boards of supervisors exclusive legislative power to be exercised in such manner as the legislature shall prescribe on the subject of roads, bridges, dams, and the erection, division, and [boundaries] of towns within their counties; and the legislature shall have power from time to time to regulate the manner of exercising such legislative power."

Mr. Elmore moved to amend the amendment by striking out the words "so as to represent equal population as nearly as practicable," which was decided in the affirmative.

The question was then put upon the adoption of the amendment as amended, which was decided in the negative.

William R. Smith moved to amend by adding to the third section the following: "Sheriffs shall be elected once in every two years, and as often as vacancies shall happen. They shall hold no other office during the term for which they were elected, and no person shall be eligible as sheriff for two successive terms."

And the question having been put on the adoption of said amendment, it was decided in the affirmative.

Mr. Whiteside moved to amend the fourth section by striking out all after the word "election" in the third line, which was decided in the affirmative.

Mr. Graham moved to amend by striking out all after section 2, and inserting the following:

"Section 3. All county officers shall be elected by the people in the manner prescribed by law. Sheriffs shall be elected every two years; all other county officers, with the exception of the clerk of the circuit court, shall be elected annually. The sheriff shall hold no other office during the term for which he shall have been elected, and shall be ineligible to the office of sheriff for the term of two years next after the termination of his office. Sheriffs and such other county officers as may be prescribed by law shall give security for the faithful performance of the duties of their respective offices and may be required to increase or renew the same from time to time as provided for by law."

And the question having been put on the adoption of said amendment, it was decided in the affirmative.

Mr. Graham then moved to amend by inserting the following as section 4:

"Section 4. Vacancies in any county office may be filled by election or appointment, in the manner prescribed by law, and deputies may be appointed by county officers whenever authorized by law."

And the question having been put on concurring in said amendment, it was decided in the affirmative.

Mr. Graham then moved further to amend by adding the following as section 5:

"Section 5. No county shall be laid off or established hereafter, containing an area of less than 324 square miles, exclusive of any portion of Lake Michigan, Green Bay, or Lake Superior."

J. Allen Barber moved to amend the amendment by striking out the number 324, and inserting the number 576 in lieu thereof, which was disagreed to. Mr. Elmore moved that the vote on said last amendment be reconsidered, which was disagreed to. And a division having been called for, there were 22 in the affirmative and 37 in the negative.

Warren Chase moved to amend the amendment by adding the following proviso, to wit: "*Provided,* That the counties shall in no case be made responsible for the acts of their respective sheriffs," which was decided in the negative.

Horace Chase moved to amend the amendment by striking out all after the words "less than" and inserting the words "one Congressional township or fractional township." And the question having been put on the adoption of the said amendment, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 30, negative 53; for the vote see Appendix I, roll call 67].

Mr. Tweedy moved to amend the amendment by adding the following proviso, to wit: "*Provided,* That an incorporated city containing as many as 20,000 inhabitants may be organized as a separate county," which was agreed to.

Mr. Clothier moved to amend the amendment by adding the following thereto, to wit: "And the legislature of this state shall not have power to alter or change the boundaries of the several counties and townships now organized, without first submitting such proposition to the qualified electors of such counties or townships as shall be affected by such alteration. The votes for and against such proposition shall be canvassed and returned in such manner as shall be provided by law."

And the question having been put on said amendment, it was decided in the negative. The question then recurred on the amendment of Mr. Graham as amended. And having been put, it was decided in the affirmative.

Mr. Boyd moved that said article be committed to a select committee of five, of which Mr. Graham should be chairman, which was agreed to.

The Chair then appointed Messrs. Graham, Tweedy, Steele, Wm. R. Smith, and P. A. R. Brace, said committee.

Moses M. Strong, from the select committee appointed to inquire into the sums proper to be allowed to the several officers of this convention, by leave, made the [following] report:

"The committee appointed to inquire and report the rate of compensation suitable to be allowed and paid to the several officers of this convention respectfully report the following resolution:

"*Resolved,* That there be allowed and paid to the officers of this convention the following compensation for their services, respectively, viz., To the president of the convention, in addition to his compensation as a member, the sum of two dollars per day. To the secretary, five dollars per day. To the assistant secretaries four dollars per day each. To the other officers of this convention two dollars and fifty cents per day each.

"*Resolved,* That certificates be issued by the president to the several officers for the amount of compensation allowed by the foregoing resolution, in the same manner as certificates are issued for the compensation of the members."

Mr. Magone moved that the rules be suspended, in order that said report and resolution might be taken up and acted upon now, which was decided in the negative, two-thirds not voting therefor. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 49, negative 41; for the vote see Appendix I, roll call 68].

On motion the convention adjourned.

TUESDAY, NOVEMBER 3, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read and corrected.

The following communication was received from the Treasurer, and read, to wit:

TREASURER'S OFFICE,
MADISON, W. T., November 2, 1846.

Hon. D. A. J. Upham,
President of the Convention.

SIR: I have in my hands as treasurer of the territory of Wisconsin $10,000 applicable to the payment of the expenses of the convention now in session, which I am ready "to pay out" for that object "in such manner as the convention may provide."

Very respectfully, your ob't serv't,
J. LARKIN, JR.,
Treasurer, W. T.

Mr. Gray moved that the convention take a recess for one hour, which was disagreed to.

The resolution of Mr. Hackett, introduced on yesterday, relative to the per diem of members of this convention was taken up, when Mr. Dennis moved to amend the same by adding thereto the words, "or absent on leave of the convention."

Mr. Ryan moved a call of the convention, which was ordered, and Messrs. Beall, Fuller, Gibson, Gray, George B. Hall, Hazen, Hill, Holcombe, Patch, Parsons, Phelps, John Y. Smith, Marshall M. Strong, Moses M. Strong, and Whiteside were reported absent.

The sergeant at arms was sent to notify the absentees that their attendance was required in the convention chamber.

Garrett M. Fitzgerald was excused from his attendance in the convention.

Warren Chase moved that the convention adjourn until two o'clock P. M., which was disagreed to.

Mr. Judd moved that all further proceedings under the call be dispensed with.

Mr. Gray moved that the convention adjourn for one hour, which was disagreed to.

And the question having been put on the motion of Mr. Judd to suspend all further proceedings under the call of the house, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 12, negative 71; for the vote see Appendix I, roll call 69].

A. Hyatt Smith moved to suspend all further proceedings under the call of the house, several absentees having appeared in their seats, which was agreed to.

The hour for the consideration of morning business having expired, Moses M. Strong moved that the rule be suspended in order that the [resolution] above mentioned might be finally acted upon now, which was agreed to.

The question was then put on the amendment of Mr. Dennis and was decided in the negative.

Wm. R. Smith moved to amend the resolution by striking out the word "two" before "dollars" and inserting "three" in lieu thereof, and by striking out the word "only."

Moses M. Strong demanded the previous question.

Moses M. Strong moved a call of the house, which was ordered, and Messrs. Atwood, Beall, Boyd, Coxe, Dickinson, Hesk, Hunkins, Kern, Asa Kinne, Magone, Moore, O'Connor, Parsons, Phelps, Pierce, Randall, Rankin, John Y. Smith, and Marshall M. Strong, reported absent.

The sergeant at arms was sent to inform the absentees that their attendance was required in the convention chamber. And pending the report of the sergeant at arms, on motion of Mr. Berry the convention adjourned until two o'clock, P. M.

Mr. Hackett presented the following: "*Resolved,* That each member of this convention shall be entitled to a per diem allowance at two dollars per day for the number of days only that he may be actually in attendance at the capitol."

Mr. H. said that he did not believe a man ought to be paid for the time he was not in attendance here, but at home attending on his own business. Such a man ought not to be paid. He had himself been absent at the commencement of the session, for which time he expected no pay. A suggestion had been made to pay the members three dollars per day; to this he objected, because it would be cited as a precedent by which the legislature would claim the right to increase their own pay; and because he did not believe this convention had the authority to increase their pay; and because no man had come here with an expectation of receiving any more than two dollars per day.

Mr. Dennis moved an amendment which was adopted, by adding to the resolution "or [absent] on leave of the convention."

Mr. Manahan spoke against the resolution at considerable length.

Mr. W. R. Smith moved to strike out "two dollars" and insert "three dollars"; also to strike out the word "only."

Mr. Noggle said there could be no question but that every man here came with a full understanding that they were to receive two dollars. Whether the legislature did right or wrong in limiting the amount of pay of members to two dollars a day, he much doubted. This convention was about to fix the rate of per diem of members of the legislature, and he had not yet heard anyone speak of a higher sum than two dollars.

Mr. Moses M. Strong called the previous question, and was sustained, and the main question ordered, but before the question was taken the convention adjourned to two o'clock, P. M.—*Argus,* Nov. 10, 1846.

TWO O'CLOCK, P. M.

The resolution in relation to the per diem of members was taken up. And the question having been put, "Shall the main question be now put?" it was decided in the negative.

W. R. Smith addressed the convention in explanation of his amendment. He thought the legislature had no control over this convention in regard to the amount that its members should receive. The convention had overreached the law in electing the officers, which showed that the convention did not regard the law as restricting the action of the convention. He closed by asking leave to withdraw his amendment for the present. Leave was not granted.

The question "Shall the main question be now put?" was decided in the negative; so the whole matter lies over till tomorrow.—*Democrat,* Nov. 7, 1846.

Mr. Dennis, by leave, introduced the following resolution, and the rules having been first suspended for that purpose, the resolution was taken up, to wit: "*Resolved,* That the treasurer of the territory be directed to pay to each member of this convention who has been in attendance the sum of $50 towards his per diem compensation as a delegate. Also, the sum of $75, each, to the secretary and assistant secretaries of the convention. Also, the sum of $50 to each of the remaining officers of the convention, to wit: the sergeant at arms, doorkeepers, messengers, chaplains, and fireman, as part pay for their services. Also, the sum of $400 to Beriah Brown, printer of the convention, as part pay for his services as printer, and that the treasurer pay the foregoing items in preference to any other claim whatever."

Moses M. Strong moved to amend the resolution by inserting after the word "messengers" in the ninth line of the resolution the word "chaplains," which was agreed to. The resolution as amended was then adopted.

Mr. Ryan, by leave, introduced the following resolution, to wit: "*Resolved,* That the thirteenth standing rule be so altered that upon a call of the house being ordered the doors shall be closed and no member permitted to leave the room after the call is ordered until the report of the sergeant at arms be received and acted upon, or further proceedings in the call be suspended."

And the rule having been first suspended for the purpose, Mr. Hyer moved to amend the resolution by inserting after the word "upon" in the last line but one the words, "and the question if any be pending, be taken," which was agreed to.

The resolution as amended was then adopted. And a division having been called for, there were 83 in the affirmative, negative not counted.

A. Hyatt Smith moved that the rules be suspended in order that the resolution reported by the committee on expenses, allowing $500 to A. A. Bird, and the resolution relative to the per diem of the officers of this convention may be taken up and acted upon, which was agreed to.

The resolution appropriating $500 to A. A. Bird was then taken up.

And the question having been put on the adoption of the said resolution, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 81, negative 13; for the vote see Appendix I, roll call 70].

Moses M. Strong and Ryan opposed any appropriation for the payment of this claim by the convention, inasmuch as it was authorized by the legislature, and they should provide for its payment. The territorial superintendents were empowered to bind the legislature, but no such power exists in regard to this convention; they would therefore vote against the appropriation.

Mr. George Hyer was in favor of dividing the funds now in the treasurer's hands among the several claimants pro rata, and not to discharge one claim in full, and compel others to go without any.

Messrs. John Y. Smith, Parkinson, and Noggle advocated the propriety of discharging this claim, and notwithstanding a most complete exposure of the "logrolling" of the claimant to bring the matter to a successful issue the appropriation was carried.—*Express,* Nov. 10, 1846.

The resolution relative to the per diem of officers was then taken up, when Moses M. Strong moved to amend said resolution by inserting after the word "convention" the words "including chaplains."

J. Allen Barber moved to amend the amendment by inserting after the word "such" the words "and that the chaplains be paid by voluntary contributions of the members." And the question having been put on said amendment, it was decided in the negative.

The question then recurred on Mr. Strong's amendment. And having been put, it was decided in the affirmative.

William R. Smith moved to amend the resolution by striking out the words "and fifty cents" in the last item to the officers of the convention. And the question having been put on said amendment, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 78, negative 19; for the vote see Appendix I, roll call 71].

Mr. Parks moved further to amend the resolution by striking out the number "five" before "dollars," in the per diem of the secretary, and inserting the number "four" in lieu thereof.

Marshall M. Strong moved that said resolution, together with the amendment, be laid on the table, which was disagreed to.

Mr. Steele moved that the further consideration of said resolution be postponed until tomorrow, which was disagreed to.

The question then recurred on the amendment of Mr. Parks. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 70, negative 26; for the vote see Appendix I, roll call 72].

Mr. Burchard moved that the convention adjourn, which was decided in the negative.

Mr. Parks then moved further to amend the resolution by striking out the number "four" before "dollars" in the per diem of the assistant secretaries and inserting the number "three" in lieu thereof, which was decided in the affirmative.

Mr. Parks then moved further to amend the resolution by inserting after the word "each" in the per diem of the assistant secretaries the words "for each day's service," which was decided in the affirmative.

Mr. Bevans moved to amend the resolution by striking out all after the words "other officers of the convention" and inserting the following: "Excepting chaplains, $2.50 each, and to the chaplains $2.00 each for every day's attendance upon this convention," which was disagreed to.

Mr. Phelps moved that said resolution be laid upon the table, which was disagreed to.

Marshall M. Strong moved to amend the resolution by inserting the following proviso after the word "each" in the fifth paragraph, to wit: "*Provided,* That such chaplain shall be paid for those days only upon which he shall have attended upon the convention," which was decided in the affirmative.

Mr. Ryan demanded the previous question, which was seconded. And the question having been put, "Shall the main question be [now] put?" it was decided in the affirmative.

The question then recurred on the adoption of the resolution as amended. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 73, negative 24; for the vote see Appendix I, roll call 73].

The resolution affixing the rate of compensation for the officers was then taken up and proved a most fruitful subject of debate. There were some dozen or more amendments offered to the resolution, among which the following were the most important, viz:

To include chaplains in the list of officers who are allowed $2.50 per day, introduced by Moses M. Strong, and adopted.

That the chaplains should be paid by the voluntary subscription of the members, introduced by J. Allen Barber, and rejected.

To reduce the compensation of the secretary to $4, that of the assistant secretaries to $3 for each day's attendance, and other officers, including chaplains, $2.00 per day, introduced by Mr. Parks and adopted.

The resolution being still further discussed, the previous question was called for and ordered; the question was then upon the adoption of the resolution as amended, and it was carried.

The per diem allowed by the resolution is now—to the president (in addition to his regular pay) $2.00 per day; to the secretary, $4.00 per day; to the assistant secretaries, $3.00 for each day's services; to other officers, including chaplains, $2.00 for each day's services.—*Express,* Nov. 10, 1846.

Moses M. Strong moved that the vote by which the convention refused to order the main question to be put, on the resolution relative to the per diem of members, be reconsidered, which was agreed to, when William R. Smith, by leave, withdrew his amendment to said resolution.

Mr. Hays moved to amend the resolution by striking out all after the word "day" in the third line. And pending the question on said amendment, on motion of Warren Chase, the said resolution was indefinitely postponed.

Marshall M. Strong, by leave, presented the account of E. B. Dean Jr. for stationery furnished for the use of the convention [which was

on his motion referred to the committee on the expenses of the convention].

Mr. Randall presented, by leave, the account of Messrs. Varney and Viall for plastering the convention chamber, which was on his motion referred to the committee on the expenses of the convention.

George Hyer, by leave, introduced the following resolution, which was read and on motion of Mr. Dennis referred to the committee on the expenses of th convention, to wit: "*Resolved*, That the treasurer of the territory be instructed to pay S. Mills & Co., publishers of the *Wisconsin Argus*, $250, on account of newspapers furnished the convention."

Mr. Randall, by leave, introduced the following resolution, which was read to wit: "*Resolved*, That W. W. Treadway be paid out of the convention fund the sum of $10, in full for services as secretary pro tem of this convention."

Mr. Agry moved that the vote by which the convention adopted the resolution allowing A. A. Bird $500 for repairing the convention chamber be reconsidered. Moses M. Strong moved that the said resolution be laid on the table, which was agreed to.

Mr. Hicks gave notice that on some future day he would move for a reconsideration of the vote by which the "article on banks and banking" was passed.

On motion of Mr. Magone the convention adjourned.

WEDNESDAY, NOVEMBER 4, 1846

Prayer by the Rev. Mr. Miner.

On motion, the reading of the journal was dispensed with.

Leave of absence was asked for and granted, as follows, to wit: By Mr. Magone for Messrs. Wilson and Toland; by Mr. Hunkins for Mr. Randall; by Mr. Edgerton for Mr. Parks; by Wm. R. Smith for Moses Meeker and Burchard.

Mr. Hill presented the account of W. W. Wyman for papers furnished the members of this convention which was on his motion referred to the committee on the expenses of the convention.

Mr. Hill presented the account of Wm. W. Wyman for papers furnished the members of this convention to this date, amounting to $136.50, and moved its reference to the committee on expenses.

Moses M. Strong was opposed to receiving this claim until the editor of the *Express* had contradicted a lie in regard to him, contained in the paper of the current week, charging him with being indebted to the Wisconsin Insurance Company in the sum of $500. He wished the reporter for that paper to note particularly that he said it was a lie, and that any man who said such was the case was a liar.

The account was (notwithstanding the above opposition) referred to the committee on expenses.

Horace Chase introduced the following resolution, which was read, to wit: "*Resolved*, That the treasurer of the territory is instructed not to pay the second assistant secretary of this convention, Mr. McHugh, till a further order of this convention." And the rules having been first suspended for that purpose, the said resolution was taken up and adopted.

The resolution introduced by Mr. Meeker on Monday, relative to the payment of the per diem of members of the convention, was taken up, when Mr. Dennis moved that said resolution be laid on the table, which was agreed to.

The resolution relative to the time for the adjournment of the convention was taken up, when Warren Chase moved to amend the resolution by striking out the number "twenty-third" and inserting the number "thirty" in lieu thereof. And pending the question on the said amendment, Mr. Judd moved to lay said resolution and amendment on

the table, which was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 53, negative 27; for the vote see Appendix I, roll call 74].

Moses M. Strong introduced the following resolution, which was read, to wit: "*Resolved,* That this convention will adjourn without day on Tuesday, the twenty-fourth day of November instant."

Mr. Judd moved to lay the resolution on the table. He did not believe the business of the convention would be expedited by the appointment of a certain day upon which they should adjourn.

Moses M. Strong opposed the last motion and called for the ayes and noes in order to show the people who were in favor of expediting business and who opposed.

The resolution was laid on the table.

Moses M. Strong introduced the same resolution again, and gave notice that he should continue to offer it as often as laid on the table.—*Express,* Nov. 10, 1846.

The resolution requiring the members of this convention to be sworn was taken up, when Mr. Hunkins moved that the same be laid on the table, which was agreed to.

The resolution allowing W. W. Treadway $10 for services as secretary pro tem was taken up, when Mr. Elmore moved to amend the same by striking out the number "ten" before "dollars" and inserting "eight" in lieu thereof, which was disagreed to. The said resolution was then adopted.

Mr. Phelps presented the account of John T. Wilson for window latches and pulleys for the convention chamber, which was, on his motion, referred to the committee on the expenses of the convention.

No. 13, "Article on the organization and functions of the judiciary," was taken up, when Wm. R. Smith moved that said article be postponed until one week from Monday next, and that it be made the special order of the day for that day.

Moses M. Strong moved to amend the motion by striking out the words "one week from Monday next" and inserting the words "next Wednesday," which was decided in the negative. And a division having being called for, there were 33 in the affirmative and 44 in the negative.

Moses M. Strong called for the ayes and noes, which were ordered. Those who voted in the affirmative were [affirmative 38, negative 52; for the vote see Appendix I, roll call 75].

Moses M. Strong moved to amend the motion by striking out the words "one week from," which was decided in the negative.

The question then recurred on the motion of Wm. R. Smith. And having been put, it was decided in the affirmative. And a division having been called for, there were 57 in the affirmative, negative not counted.

The convention then resolved itself into committee of the whole for the consideration of No. 14, "Bill of rights," Mr. Judd in the chair. And after some time spent therein the committee rose and reported progress and asked leave to sit again. Leave was granted.

On motion of Mr. Baird the convention adjourned until two o'clock P. M.

Mr. Gray moved to strike out the syllable "in" so that the first section would read "All men are born free and dependent," etc., which was rejected.

W. R. Smith moved to strike out the first section and insert a substitute, which was read and adopted.

The third section was on motion of A. Hyatt Smith stricken out.

The fourth section gave rise to considerable debate. It read in the report "The liberty of the press is essential to the security of freedom, and it ought not therefore to be restrained in this state."

Amendments were offered and adopted to alter the last clause so as to read "and it shall not be restrained," etc.

Messrs. Marshall M. Strong and Tweedy denied the principle set up in this section and contended that it was proper and necessary to place some restraints upon the press in regard to licentiousness, libels, etc. Messrs. Lovell, Beall, and Marshall M. Strong severally offered amendments to the section, and a substitute offered by the last named gentleman was finally adopted.

The fifth section, which reads in the original: "The legislature shall make no law abridging the freedom of speech or the right of the people peaceably to assemble and to petition for a redress of grievances," was very generally objected to as too indefinite. Several substitutes were proposed, and one, offered by Mr. Lovell, after being amended by Marshall M. Strong, was adopted.

Mr. Agry offered a substitute for the sixth section, which was adopted.

A. Hyatt Smith moved to strike out the seventh section, which was carried. The section read: "The legislature shall not possess or exercise any powers except such as are expressly granted by this constitution; and all power and authority not expressly granted by this constitution is reserved to the people."

The eighth section was also stricken out on motion of Mr. Bevans.

General Crawford wished to make a few remarks, which nothing but the conduct of the house for the last two days could have drawn forth, and which he made in all sincerity, and he was sorry that there was not a full house to hear them. We are convened here as a body of men to frame a constitution, and have a very large majority of Democrats, and he would therefore inquire who or what political party would be deemed responsible for the acts of the convention? We have a small minority of Whigs among us, and, although politically opposed to them, I am free to confess that so far as my observation of their acts goes, they are all honorable men and have no disposition to place any stumbling block in our way to obstruct us in our business. But, sir, I do hope that the majority in this convention will take the subject into serious consideration, whether it is not best to go to work like men of judgment, press ahead with our business, and finish it up as we should do, so that when we return to our constituents and tell them how we have spent our time here they may say to us: "Well done thou good and faithful servants." And I assure you, sir, and the gentlemen of this convention that my present opinion is that unless we pursue a different course from what we have done for the past two days we shall be so long in framing a constitution, and use so little judgment in doing so, that our Democratic friends will reject it, and as that goes so goes our party. Therefore, I hope every Democrat in this body will calmly deliberate upon this and consider what a responsibility rests upon him—his duty to his friends and the fate of his political party. They or we will have to answer for it. And further, sir, I hope the time will never arrive when we shall have the mortification

to see any member of this convention come into this chamber fuddled and thereby obstruct our legitimate business.

Mr. Tweedy objected to the ninth section as indefinite and imperfect, and moved that the whole section be stricken out, and offered two additional sections, to cover the ground more completely.

The motion to strike out was carried, and the additional sections gave rise to considerable discussion by Messrs. Tweedy, Ryan, and Marshall M. Strong.

The ground of dispute was the right of trial by jury in civil cases, where the amount at issue is less than twenty dollars. Mr. Ryan was opposed to the principle of this proposition and the other gentlemen supported it.

While the matter was under discussion, Moses M. Strong delivered a rather digressive speech which created considerable merriment among the members present. He also made several motions to rise and report, all of which were rejected.

Marshall M. Strong took the floor in support of the substitutes offered and continued his remarks until the usual hour for adjournment arrived, when on motion of Mr. Ryan the committee rose and reported progress, and the convention adjourned to two o'clock, P. M.—*Express,* Nov. 10, 1846.

TWO O'CLOCK, P. M.

The convention again resolved itself into committee of the whole for the further consideration of No. 14, "Bill of rights," Mr. Judd in the chair. And after some time spent therein the committee rose and reported progress on said article, and asked leave to sit again thereon. Leave was granted.

On motion of Asa Kinne the convention adjourned.

The question pending was the substitutes for the ninth section offered by Mr. Tweedy, and an amendment proposed thereto, to strike out twenty dollars.

Mr. Ryan took the floor in opposition to the substitutes and was answered by Marshall M. Strong in favor of them.

The question was taken upon striking out twenty dollars, which was carried.

The question was taken upon the first section proposed to be substituted, and it was adopted as amended. The remaining substitute was then withdrawn in favor of one proposed to be offered by Mr. W. R. Smith to section 11.

Mr. Bennett offered an additional section providing that no divorces should be granted by the legislature, which was adopted and numbered as section 8.

W. R. Smith moved to strike out section 10 and insert a substitute which he offered and which was adopted.

W. R. Smith moved to strike out the eleventh section and insert a substitute, which was carried. The substitute here adopted was the same before offered and withdrawn by Mr. Tweedy.

The twelfth section was stricken out and a substitute therefor adopted.

Mr. Ryan proposed an amendment to the fourteenth section, to prohibit any law being made to impair the validity or remedy of contracts, which was discussed at great length. Messrs. Ryan, Tweedy, and Noggle supported the amendment, and Messrs. Steele, Barber, Beall, and George B. Smith opposed it.

The section stood in the original, "No ex post facto law nor any law impairing the validity of contracts shall ever be made; and no conviction shall work corruption of blood or forfeiture of estate."

As amended and proposed to be amended, it reads, "No bill of attainder or ex post facto law nor any retroactive law impairing the validity of contracts shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate."

During the discussion upon Mr. Ryan's amendment the committee rose and reported progress, and the convention adjourned.—*Express,* Nov. 10, 1846.

The convention then resolved itself into committee of the whole, Mr. Judd in the chair, on the bill of rights.

The committee had the report under discussion the whole day. As usual the report was entirely changed by the amendments that were adopted. (We have not room for a particular report.)

The most interesting and important discussion was on the fourteenth section of the report, which reads—"No ex post facto law nor any law impairing the validity of contracts shall ever be made; and no conviction shall work corruption of blood or forfeiture of estate." The section was so amended as to read—"No bill of attainder nor ex post facto law nor any law impairing the validity of contracts shall ever be passed," etc., when Mr. Ryan moved to insert "retroactive" before the word "law," and "or remedy" after "validity" so that the clause would read "nor any retroactive law impairing the validity or remedy of contracts."

A long discussion was held on this amendment, Messrs. Ryan and Tweedy ably sustaining the amendment in several speeches. Some other gentlemen also sustained the amendment. Messrs. G. B. Smith, Beall, H. Barber, Steele, and some other gentlemen opposed it with ability. The question was pending when the committee rose.

Mr. Magone gave notice that tomorrow he should move that the convention adjourn till the first Monday of December next. The convention then adjourned.—*Democrat,* Nov. 7, 1846.

THURSDAY, NOVEMBER 5, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

George Hyer presented the account of S. S. Keyes for chairs furnished the convention, which was on his motion referred to the committee on the expenses of the convention.

Warren Chase introduced the following resolution, to wit: "*Resolved,* That the following be added to the rules of the convention: There shall be no debate, nor any motion entertained after a motion has been put and the voting commenced, either by acclamation or otherwise, until the same is decided."

Mr. Baird introduced the following resolution, to wit: "*Resolved,* That this convention will adjourn without day on Monday, the thirtieth day of November instant."

The resolution introduced by Moses M. Strong, on yesterday, relative to adjournment, was taken up, and on motion of Mr. Magone was laid on the table.

Mr. Dennis, from the committee on the expenses of the convention, by leave made the following report:

"*Resolved,* That there be allowed to E. B. Dean Jr. the sum of $900 for stationery furnished the convention, provided the said Dean receives the above amount as in full for his bill presented.

"To Darwin Clark $462.25, in full for 43 desks furnished the convention.

"To Simeon Mills & Co., publishers of the *Wisconsin Argus,* $100, as part pay for newspapers furnished the convention.

"To W. W. Wyman, publisher [of the] Madison *Express,* $100, as part pay for newspapers furnished the convention.

"To Beriah Brown, publisher of the *Democrat,* $100 as part pay for newspapers furnished the convention."

"*Resolved,* That the treasurer of the territory be directed to pay the above appropriation[s] out of any funds in his possession which are subject to the control of this convention."

No. 14, "Bill of rights," was taken up, when Mr. Bevans moved that the committee of the whole be discharged from the further consideration of the said article, and that it be referred to a select committee of seven, which was disagreed to.

The convention then resolved itself into committee of the whole for the further consideration of the said article, Mr. Judd in the chair. And after some time spent therein the committee rose and reported progress thereon and asked leave to sit again. Leave was granted.

Mr. Magone moved that the convention do now adjourn until the first Monday of December next, which motion was on his motion laid on the table.

On motion of Mr. O'Connor the convention adjourned until two o'clock, P. M.

TWO O'CLOCK, P. M.

The convention again resolved itself into committee of the whole for the further consideration of No. 14, "Bill of rights," Mr. Judd in the chair. And after some time spent therein the committee rose and reported the said article back to the convention with amendments.

Nathaniel F. Hyer moved to amend the seventh amendment of the committee by adding thereto the following: "Nor shall witnesses be unreasonably detained; neither shall they be required to leave the county to give evidence in any civil cause." And the question having been put on said amendment, it was decided in the negative.

And the question being on concurring in the amendments reported by the committee of the whole, Moses M. Strong called for a division of the question. And the question having been put on each of the said amendments separately, they were severally adopted.

Hiram Barber moved that said article be referred to a select committee of five, to correct, arrange, and revise, and to report the same back to the [convention] in such revised form, together with such amendments as they shall deem expedient to have adopted and such additions, if any, as they may deem necessary, which was decided in the affirmative. And a division having been called for, there were 49 in the affirmative, negative not counted.

The President appointed the following persons the committee under said motion, to wit: Messrs. Bevans, Wm. R. Smith, N. F. Hyer, Hiram Barber, and A. Hyatt Smith.

Moses M. Strong moved that the rules be suspended in order that the resolution introduced by Mr. Baird, this morning, relative to adjournment, be now taken up and acted upon. And pending the question on said motion, Mr. Dennis moved that the convention adjourn, which was decided in the affirmative. And a division having been called for, there were 51 in the affirmative, negative not counted. The convention adjourned.

The question pending was upon the amendment of Mr. Ryan to the fourteenth section to prohibit the legislature from passing any law to impair the validity or "remedy" of contracts.

The prolonged discussion of yesterday was continued upon the proposed introduction of the word "remedy" into the section. Messrs. Tweedy, Ryan, Mills, and Bevans ably and eloquently advocated the amendment and argued that its introduction would render the section definite and comprehensive to all; whereas, as the section now read, it was a mere nullity and unless amended as proposed might better be stricken out. The

decision of Judge Baldwin of the Supreme Court of the United States in a case where the laws impairing the remedy of contracts was in question gave rise to a lengthened debate, as did also the comments on constitutional reform and on the new constitution of New Jersey, in the *Democratic Review,* where the section similar to the above, incorporated in the New Jersey constitution, is advocated and recommended to be adopted in the constitution of New York.

Messrs. Steele, Manahan, G. B. Smith, and Marshall M. Strong opposed the amendment at great length and upon different grounds. Mr. Manahan contended that it was calculated to oppress the poor man for the exclusive benefit of the lawyers. Mr. Smith opposed it because he had some indistinct idea that it struck at the very foundation of what he termed his "pet" project of exemption. He advocated his pet project at considerable length and indulged himself in one of his peculiar flights of imaginary eloquence in favor of protection for the poor man from oppression, all of which was very evidently intended for "Mr. Buncombe." Marshall M. Strong opposed the amendment upon the ground that it would consume much time in litigating and millions of dollars in costs, in order to place a judicial construction upon the word "remedy."

During Mr. Tweedy's able remarks upon this question he was somewhat uncourteously interrupted by Geo. B. Smith, who was anxious to correct Mr. Tweedy and the members of the convention upon a clause in the constitution which had been adverted to. He was so far indulged as to be permitted to read, and the clause only proved that the gentleman himself was beyond his depth, and rendered himself the laughing stock of the convention.

The question was finally taken upon the amendment and it was rejected.

Mr. Bennett then offered the following substitute, to wit: "No bill of attainder or ex post facto law, or any law ought ever to be made or have force in the state that shall in any manner whatever interfere with or affect private contracts or engagements bona fide and without fraud previously formed," which was rejected.

Mr. Tweedy offered the following as a substitute for the section: "The legislature shall not pass any bill of attainder, or ex post facto law, or law impairing the obligation of contracts depriving parties of any remedy for enforcing a contract which existed when the contract was made," which was also rejected.

Mr. Ryan moved to amend the motion so that the committee should rise and report progress, and a question arose which was first in order, the motion to rise and report or the motion to rise and report progress; the Chair decided Mr. Ryan in order, and on an appeal from this decision the Chair was sustained. The question was taken, and the committee rose and reported progress.

Mr. Magone introduced a resolution to the effect that the convention adjourn to the first Monday in December next, which was, on motion of the same gentleman, laid on the table.

AFTERNOON SESSION

(In committee of the whole on the Bill of Rights)

W. Chase moved to strike out the fifteenth section, which was adopted. The section read, "No person demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in this state."

The sixteenth section was stricken out, and a substitute introduced by Mr. J. A. Barber adopted in its stead.

The seventeenth section was adopted without amendment.

N. F. Hyer moved to strike out all of the [eighteenth] section after the word "state," which was carried.

The nineteenth section, after being materially amended by Mr. Tweedy, was adopted.

The remaining sections, with two exceptions only, were severally stricken out as they came up, and the "Bill of Wrongs" was finally got through with, and the article was christened by its proper title of the "Bill of Rights." The committee then rose and reported the article back to the house with the amendments adopted.

The amendments adopted in committee of the whole were then put and severally adopted by the convention.—*Express*, Nov. 10, 1846.

The morning hour having passed, Mr. Bevans moved that the bill of rights be referred to a select committee, of which Mr. Tweedy should be chairman. The principle contained in the amendment proposed by the member from Racine, Mr. Ryan, was a good one and he thought it ought to be adopted. Every man who had had occasion to look into the decisions of the courts in which the principle involved had come before them would acknowledge the difficulty of determining the law of the case. This amendment would put the law beyond dispute. The state of New Jersey has such a provision, and he was in favor of it, because it settled the law on the decisions of the Supreme Court of the United States, and the difficulty heretofore existing would be avoided.

The motion was opposed by W. Chase on the ground that it would tend to delay the action of the convention on the matter. The motion to commit was lost.

The convention then resumed its session in committee of the whole on the article, the amendment of Mr. Ryan being under consideration.

Mr. Brace said, if he understood the arguments of gentlemen who have spoken on this question, there was but one opinion among them. All agreed that such a provision as the one proposed should be passed, a provision that should settle the question of the right of the legislature to pass laws impairing the obligations of contracts; and many have supposed that the article as it now stands sufficiently provides for the case. No question exists but that the right is taken from the legislature to pass an ex post facto law, that is, a law making an act innocent at the time of commitment criminal by a subsequent law. The amendment proposed provides that the legislature shall in the same manner allow the law under which a contract is entered into to remain in force as long as the contract shall remain in force.

Some gentlemen, unless he misunderstood their position, had supposed that the adoption of the proposed amendment would forever prohibit the legislature of the state from passing any stay law, exemption law, or insolvent act. Such would not be the effect of the amendment. The farthest extent to which it would go is this: It would prevent the legislature from passing any act that would in any manner prevent the enforcement of the contract which existed at the time the contract was entered into, but would leave all the remedies, all the stays, all the exemptions that existed at the time in force. But debts or contracts entered into subsequently would be governed by the laws which would then be passed, whatever they might be. At the time the words found in the section as it now stands were placed in the Constitution of the United States and almost every other state in the Union they were supposed sufficient to restrain the legislatures, but such has not been found to be the case. With the Constitution of the United States and of the state before them, the legislature of Ohio have passed laws compelling the sheriffs to cause all lands levied upon by them to be appraised, and not to sell the same for less than two-thirds the appraised value; and this law took effect and operated upon contracts and debts in existence at the time of the passage of the law. Now, he asked, did not this law impair the obligation of the contracts? The law that was in existence at the time was a part of the contract and entered into the consideration of the parties at the time of making the same. Yet the law steps in and defeats the remedy, and we are gravely told by the courts that cutting or defeating the remedy does not impair the obligations of contract. Many, at the time of the passage of the law, supposed that the law was unconstitutional and would be so decided by the courts, but in that they were mistaken. The supreme court of the state decided that, though all remedy were cut off, the contract remained untouched. This the amendment would avoid, and there was a necessity for placing in the constitution such definite words as would fully express the meaning and intent of the convention. For one he was in favor of making the amend-

ment, and as yet he had heard no good reason why it should not be made.

Mr. Mills said that hitherto he had been a silent listener in this house, but he hoped the convention would excuse him if he should make some observations on what he considered one of the most important questions that had or could arise. The question is not whether we shall have a provision which will prevent the legislature from passing any law to impair the obligation of a contract, because such a prohibition already existed in the Constitution of the United States, and that is binding on us here. He was aware that the courts had repeatedly decided that the law which took away the remedy did not fall within the prohibition of the constitution, but he would acknowledge that he never could see the difference made by the courts. And he had repeatedly asked where was the difference between a law that took away the power to collect a debt and one that should declare a contract solemnly entered into void. To illustrate: If A. and B. contract together, they take into consideration the law that bears upon the subject, the probability of the failure of the debtor, and the power given by law to collect the demand. If so, any change in that power will affect the contract, will impair its obligations, and would appear to be contrary to the Constitution of the United States.

A constitutional provision similar to the one now in the article exists in nearly every state in the Union; and yet in all those states stay laws, exemption laws, insolvent acts, and appraisal laws have been passed and made to take effect on contracts theretofore in existence. The state of Illinois furnishes a fair example of such legislation and judicial confirmation. The legislature of that state passed a law that, if an execution should be levied on real estate, the sheriff should summon three disinterested men to appraise the cash value of such estate, and that unless the plaintiff in execution or some other person should bid for such estate two-thirds of such appraised value, the same should be released; and courts of that state decided that this law, which almost deprived the plaintiff of his remedy, was constitutional and did not impair the obligation of the contract. A case involving the point of constitu-

tionality has been carried to the Supreme Court of the United States, and that court has decided that the law in existence at the time of making the contract entered into and formed a part of the contract, and any law which changed the remedy did impair the obligation and was unconstitutional. According to this decision, then, the remedy is a part and parcel of the contract and cannot be changed without impairing that obligation. He would concede that if the legislature and courts of Wisconsin would at all times be governed by the decision of the Supreme Court of the United States, there would be no need of the proposed amendment; but if there was any doubt on that subject, then the amendment should be adopted to prevent suits from being carried to the Supreme Court of the United States for their reversal at the great expense of the parties litigant.

Mr. Steele, whose remarks could be but indistinctly heard by the reporter, was understood to say that he did not agree with the gentleman from Rock, Mr. Mills, as to the effect of the proposed amendment. If he thought, as that gentleman did, that the provision was needless, he would go to strike it out entirely, as needless; but he did not so believe; on the contrary, his opinion was that it would prevent the legislature from ever passing any exemption or after laws for the relief of the debtor.

Mr. Manahan would suppose a man had come to this territory, after having given up all the property he had accumulated in another place to his creditors, and, after years of hard living and harder labor, had obtained a small piece of land, on which he had built a cabin, and settled down in the hope of being possessed of a home for life. Now he would ask gentlemen, if after this constitution, amended as was proposed by gentlemen, was adopted, the creditors of the debtor could not come from abroad and deprive him of his home, his all, again, and that, too, even though we might have a law in force to exempt every inch of his land from execution on debts contracted here? He thought he would, and therefore he should vote against the amendment that had been proposed.

G. B. Smith was opposed to the amendment for the very reason that had been given why it should pass. He believed

the remedy formed no part of the contract—that was entirely the creature of the law and may be modified or even abolished and the contract remain the same. If it were not so, then there should be a law passed to prohibit a man from selling any of his property after he shall have made a contract, because that would destroy the remedy or prevent the enforcement of the contract. This power over the remedy the legislatures have for a long time very properly exercised and ought to retain. There are many ways in which the remedy may be affected and changed. The legislature may determine that no courts shall be held, or that the creditor shall obtain a verdict from two juries before he shall have execution, or how he shall commence his suit, and a hundred other provisions may be passed, all relating to the remedy. Would gentlemen say that all laws of this kind were unconstitutional?

One gentleman refers us to the constitution of New Jersey as authority for the proposed amendment; that was an unhappy reference, because the commentator has in express terms condemned the same as not coming up to the ideas of modern democracy. In the state of Ohio an appraisement law was passed many years ago for the benefit of the poor debtors of that state, and its operations have been found most beneficial. He would ask gentlemen if debts had not been collected in that state as easily since the passage of that law as they were before. The law was founded in justice to all parties, because it did not allow the creditor to collect his demand twice over as might be done when the plaintiff in execution could bid in property at half or less than half its real value. The section as it then stood gave the legislature the power to pass similar laws for the relief and benefit of the poor—the farmers, against the oppressions of the rich and machinations of lawyers. He could not help believing that the amendment had been got up by lawyers for the purpose of getting business which must of necessity arise on the adoption of the proposed amendment.

Mr. Bevans did not like to see a gentleman meet a great and important measure by an attack on a class of men and hold them up as an object of contempt for the people by exciting a prejudice against them; and whenever he saw a man attempt

it he set him down as one run to the girt. He could not discover what connection there was or could be between the proposed amendment and the exemption laws; or that the adoption of the one would at all hinder the passage of the other. But we are told that modern democracy protects the poor against the rich. He had not so learned democracy, but on the contrary he had been taught that modern democracy protects all alike. Some gentlemen, when speaking of debtors are constantly crying "Poor debtor!" "Poor debtor!" forgetful that there are poor creditors to be protected as well as poor debtors to be favored.

The committee had been told that this was but a trick of the bar. He denied its being so, but on the contrary he believed that it would be saving thousands of dollars to parties litigant in preventing the carrying of suits to the Supreme Court of the United States, where it would be most certainly reversed. The provision as it now stands in the article has been the great loophole of lawsuits. He denied the doctrine that stay laws and exemption laws had been found beneficial to the poor man, but on the contrary he held that they made and kept men poor by holding out an inducement to hold no more property than was exempt from execution. It was not the rich, the wary, who suffer by losing debts under these laws; it was the middle class, who trusted small sums. But if gentlemen pleased to have an exemption law, he would aid, by his vote, to place by the side of this amendment a provision that there shall be exempted to every man five hundred, eight hundred, or even one thousand dollars—any sum that will satisfy the friends of exemption. To give to judges an express direction was what he desired by this amendment, so as to save parties from the costs of litigation in the Supreme Court of the United States.

Hiram Barber said that since the adjournment yesterday he had examined the decision of the Supreme Court of the United States, and he would concede that it had changed his opinion of the propriety of the proposed amendment. He knew that in the state of New York, when the act to abolish imprisonment for debt was passed, a large body of the first legal talent

of the state held that the law fell within the provisions of the Constitution of the United States, so far as contracts entered into before its passage were concerned. But the courts held a different doctrine—that the remedy by which the contract was enforced formed no part of the contract. The decisions of the courts of New York have been followed by every other state in the Union where similar laws have been enacted, and it was not until 1845 that the subject was carried to the Supreme Court of the United States, where the doctrine of the state courts was reversed. On this decision he (Mr. B.) based his change of opinion since what he had expressed yesterday. Today he should vote for the motion to amend, that it may prevent such suits as the one here reported. The operation of the amendment would prevent any subsequent act of the legislature from affecting a transaction entered into before the passage of the law. If there were no danger of the courts in this state following the decisions of the states rather than that of the United States, then the provision would be unnecessary. The amendment covered no more ground than is covered by the decision, and would, he believed, tend to prevent lawsuits.

(Mr. B., in the course of his remarks read several extracts from the opinion of the court, which were also referred to by Mr. Tweedy, and will be found in his remarks, reported below.)

Mr. Ryan. The case of *Bronson vs. Kenzie,* decided in 1843 and of *McCracken vs. Hayward* are contradictory to and overrule all the former decisions of the state courts, and he well remembered with what surprise the decisions were received by the bar; and he was not aware that those opinions had been followed by the state courts. All that he desired by the proposed amendment was to place the law as laid down in the decisions beyond dispute; while if it be not adopted it will be a mooted point. Before these late decisions there was no question of the law in these cases; but since, the whole matter is cast afloat, and it is exceedingly difficult to determine what course the state courts will pursue, and it will prove a fruitful source of litigation till the points are again settled. To

adopt this amendment will be saying no more than that we adopt the law as decided by the supreme court.

Mr. Ryan defended the constitution of New Jersey in particular and showed from the commentator in the *Democratic Review* alluded to by G. B. Smith that this provision had his approbation.

Mr. Beall spoke against the amendment, but owing to his remote position from the reporter's desk and some noise in the hall his argument was lost to the reporter. He closed by asking if any such provision could be found in the new constitution of New York.

Mr. Tweedy: A proposition to insert such a provision was introduced in the convention, but owing to the opposition of the antirenters it did not prevail, and their new constitution has no provision on the subject, leaving the matter to the operation of the Constitution of the United States. The first and most important decision on this point was the case of *Bronson vs. Kenzie* made in 1843, which is not in this library. That was followed by *McCraken vs. Hayward* (2 Howard, 608). From this last case he read as part of his argument. Judge Baldwin in delivering the opinion of the court says:

"In placing the obligation of contracts under the protection of the constitution, its framers looked to the essentials of the contract more than to the forms and modes of proceeding by which it was to be carried into execution. It was left to the states to prescribe and shape the remedy to enforce it. The obligation of a contract consists in its binding force on the party who makes it. This depends on the law in existence when it is made; these are necessarily referred to in all contracts, and forming a part of them as the measure of the obligation to perform them by the one party, and the right acquired by the other. There can be no other standard by which to ascertain the extent of either than that which the terms of the contract indicate, according to their settled legal meaning; when it becomes consummated, the law defines the duty and the right, compels one party to perform the thing contracted for, and gives the other a right to enforce the performance by the remedies then in force. If any subsequent law affects to

diminish the duty, or to impair the right, it necessarily bears on the obligation of the contract in favor of one party, to the injury of the other; *hence any law which in its operation amounts to a denial or obstruction of the rights accruing by a contract, though professing to act only on the remedy, is directly obnoxious to the prohibition of the constitution.* * * *

"The obligation of the contract between the parties, in this case, was to perform the promises and undertakings contained therein; the right of the plaintiff was to damages for the breach thereof, to bring suit and obtain a judgment, to take out and prosecute an execution against the defendant till the judgment was satisfied pursuant to the existing laws of Illinois. *These laws giving these rights were as perfectly binding on the defendant, and as much a part of the contract, as if they had been set forth in its stipulations in the very words of the law relating to judgments and executions.* If the defendant had made such an agreement as to authorize a sale of his property, which should be levied on by the sheriff, for such price as should be bid for it, at a fair public sale on reasonable notice, it would have conferred *a right on the plaintiff, which the constitution made inviolable; and it can make no difference whether such right is conferred by the terms or law of the contract.* Any subsequent law which denies, obstructs, or impairs this right, by superadding a condition that there shall be no sale for any sum less than the value of the property levied on, to be ascertained by appraisement, or any other mode of valuation than a public sale, affects the obligation of the contract as much in the one case as the other, for it can be enforced only by a sale of the defendant's property, and the prevention of such sale is a denial of a right. The same power in a state legislature may be carried to any extent, if it exists at all; it may prohibit a sale for less than the whole appraised value, or for three-fourths, or nine-tenths; for if the power can be exercised to any extent, its exercise must be a matter of uncontrollable discretion in passing laws relating to the remedy, which are regardless of the effect on the right of the plaintiff. This was the ruling principle in the case of *Bronson vs. Kenzie,* which arose on a mortgage containing a covenant, that, in

JOHN HUBBARD TWEEDY

From a photograph in the Wisconsin Historical Library

default of payment, the mortgagee might enter upon, sell, and convey the mortgaged premises, as the attorney of the mortgagor; yet the case was not decided on the effect and obligation of that covenant, but on the broad and general principle, that a state law, which professedly provided a remedy for enforcing the contract of mortgage, effectually impaired the right incident to, and attached to it by the laws in force at its date, was void. *No agreement or contract can create more binding obligations than those fastened by the law, which the law creates and attaches to contracts;* the express power which a mortgagor confers on the mortgagee to sell as his agent is not more potent than that which the law delegates to the marshal to sell and convey the property levied on under an execution. He is the constituted agent of the defendant, invested with all his powers for these purposes. The marshal can do under the authority of the law whatever he could do under the fullest power of attorney from the execution debtor; and no state law can prohibit it. It follows that the law of Illinois now under consideration, so far as it prohibits a sale for less than two-thirds of the appraised value of the property levied on, is unconstitutional and void."

NOTE—The judgment in this case was reversed in 1840, and the law of appraisal was passed February, 1841. Mr. Tweedy particularly called the attention of the committee to those parts of the decision which are italicised.

If, said he, we could be sure of having that bench sit in Wisconsin for all time there might be no need of the amendment, or of any other provision on the subject, except as it would tend to prevent litigation; but when it is considered by those who were acquainted with courts and their decisions, who knew that a great deal depended upon the peculiar circumstances of each particular case; how they always endeavored to evade giving a decision on the constitutionality of a law, if possible, so that a great many cases may be brought before the courts involving the point, and no decision on the constitutionality obtained, then necessity of the amendment would appear. The case from which he had been reading presented an example in Judge Catron, who said:

"I have formed no opinion whether the statute of Illinois is constitutional or otherwise. The question on it *is one of the most delicate and difficult of any ever presented to this court;* and as our decision affects the state courts throughout, in their practice, I feel unwilling to form or express any opinion on so grave a question, unless it is presented in the most undoubted form, and argued at the bar. * * * I know the constitutional question will affect other states than Illinois; many, not to say most of them, have had, and some now have, valuation laws, in which no distinction is made between contracts made before the passing of the act and those made afterwards, and that the decision against their validity as to past contracts will reach a great way farther than may be supposed on a slight examination."

From this it would be plain how courts are likely to be embarrassed, and how it is possible, even with the present bench of the United States, that the unconstitutionality of the law might remain undecided for years. As the decisions now stand, there are two sets of opinions, and the subject is more at loose ends than before it had gone to the supreme court; and all the amendment proposed was to adopt the decision of that court, so as to settle the law. What some gentlemen seemed to fear could not take place. The constitution, or laws passed under it, could not have a retroactive effect; neither can it apply to any other state or the transactions of such state.

N. F. Hyer: It is an admitted principle of common law that the "lex loci contractus" governs: that is to say, that the law of the place where the contract [is] made, so far as that law enters into and forms a part of the contract, goes with the contract to the place of its execution.

Now, suppose a contract is made in this state where the interest is seven per cent, and the defendant removes to Connecticut—the law in that state allows but six per cent, and a remedy there is that the defendant may be imprisoned on execution; now the contract is sent there for collection, judgment is obtained, seven per cent interest is allowed, and in default of payment the defendant is imprisoned.

Again: Suppose that in this state all law for collection of debts should be abolished—a man gives his note here, and goes to Connecticut; so much of the law as forms a part of the contract goes with the contract. Will not the remedy in that state apply?

Marshall M. Strong spoke in very decisive terms against the amendment.

After a few remarks by Messrs. Crawford, Magone, and O'Connor against the amendment, it was lost, 32 to 51.

Mr. Bennett proposed the following as a substitute for the section, which was lost:

"Section 14. No bill of attainder, ex post facto law, or any law ought ever to be made or have force in this state that shall in any manner whatever interfere with or affect private contracts or engagements, bona fide, and without fraud previously formed."

Mr. Tweedy proposed the following, which was lost:

"Section —. The legislature shall not pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or depriving a party of any remedy for enforcing a contract which existed when the contract was made."

After the committee rose and reported the article, it was referred to a select committee to revise and correct. The committee consists of Messrs. Bevans, H. Barber, A. H. Smith, W. R. Smith, and N. F. Hyer.

And then the convention adjourned.—*Argus,* Nov. 10, 1846.

FRIDAY, NOVEMBER 6, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was then read.

Mr. Crawford asked that leave of absence be granted to Messrs. Bowen and Hiram Brown. Leave was granted.

William R. Smith presented the certificate of the election of Edward Coombs, a member from the county of Richland, which was ordered to be filed and the said Edwards Coombs admitted to his seat.

Leave of absence was then asked for and granted, as follows: By Mr. Magone, for Garrett M. Fitzgerald; by Asa Kinne, for Mr. Vliet; by Mr. Ellis, for Messrs. Hicks and Moore.

The President presented the report of the clerk of the district court for the county of Portage, which was read and ordered to be filed.

N. F. Hyer moved that the reports of the clerks of district courts be referred to a select committee of three, to be arranged and printed. Mr. Judd moved to amend by striking out the words "and printed" and insert in lieu thereof the words "be presented to the convention." Said amendment was accepted by Mr. Hyer as a modification of his motion.

Moses M. Strong moved that the said motion be laid upon the table, which was disagreed to. And a division having been called for, there were 24 in the affirmative and 34 in the negative.

Mr. Ryan moved to amend by inserting "and that General Crawford be chairman of said committee," which amendment was accepted by Mr. Hyer as a modification of his motion.

Mr. Magone moved to amend by adding "and that Mr. Ryan be a member of said committee," which was also accepted by Mr. Hyer as a modification of his motion.

The motion of N. F. Hyer as modified was then agreed to.

The President then announced the appointment of the following committee under said motion, to wit: Messrs. Crawford, Ryan, and N. F. Hyer.

Mr. Ryan asked to be excused from serving on said committee. And the question having been put, it was decided in the negative. And a division having been called for, there were 30 in the affirmative and 33 in the negative.

Mr. Holcombe presented his certificate of election as a member from the county of St. Croix, which was ordered to be filed.

Mr. Graham, from the select committee to which was committed No. 12, "Article on organization and officers of counties and towns and their powers and duties," reported the same back to the convention. Mr. Dennis moved that the said article be printed. Mr. Gray moved to amend by adding "and be recommitted to the committee of the whole," which was disagreed to. The question then recurred on the

motion of Mr. Dennis. And having been put, it was decided in the affirmative.

The resolution introduced on yesterday by Warren Chase was taken up, when Mr. Hunkins moved that the same be laid upon the table, which was agreed to. And a division having been called for, there were 32 in the affirmative and 14 in the negative.

The resolution introduced on yesterday, relative to adjournment, was taken up, when Charles E. Browne moved that the same be laid on the table. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 37, negative 48; for the vote see Appendix I, roll call 76].

Mr. Magone moved to amend by striking out the words "Monday the thirtieth" [and] inserting "Wednesday the ninth," which was disagreed to.

Moses M. Strong moved to amend by striking out "Monday the thirtieth instant" and inserting "Tuesday the first day of December next," which amendment was accepted by Mr. Baird as a modification of his resolution.

Mr. Beall moved to amend by striking out "Tuesday the first" and inserting "Tuesday the eighth," which was disagreed to. And a division having been called for, there were 24 in the affirmative, negative not counted.

The President announced that the morning hour had expired. Mr. Strong moved that the rules be suspended for the consideration of the said resolution, which was agreed to.

Moses M. Strong called for the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on the adoption of the said resolution, and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 49, negative 39; for the vote see Appendix I, roll call 77].

Mr. Magone introduced the following resolution, which was read, to wit: "*Resolved*, That the committee to which the bill of rights has been referred be instructed to report an amendment to that article, providing that no member of this convention shall hold any office of trust or profit created by this constitution until two years after the adoption of the same by the people."

Moses M. Strong moved that the rules be suspended for the consideration of the said resolution, which was disagreed to.

Moses M. Strong offered as an amendment to strike out 30th Nov. and insert 1st Dec.; accepted by the mover of the resolution. Mr. Beall moved to amend by inserting the 8th day of Dec.—lost. The resolution gave rise to a very interesting debate between Messrs. Judd, Moses M. Strong, Baird, and Bar-

ber. Mr. Judd opposed the resolution upon the ground that it was impossible at this time to determine when the convention would finish their labors, and such a resolution was therefore uncalled for. He said the convention had now been in session nearly five weeks, and he would ask any member if he candidly thought they were now half through with the business before them.

Moses M. Strong advocated the resolution. He admitted that the convention were not half through the business before them, but the reason of this delay was that the time had been hitherto consumed in attempting to make great men out of small men, and small men out of great men—in considering what office should be created for this man, and what office for that man—instead of attending to the legitimate duties for which they were sent here. If the long speeches made with this view alone and without the least reference to the business before them were dispensed with, it was his opinion that the labors of the convention could be brought to a close by the day named in this resolution. He would like to see a resolution adopted prohibiting any member of this convention from holding any office for two years after the adoption of the constitution.

Mr. Baird advocated the resolution and took the same views of the subject as Mr. Strong.

The ayes and noes were called for and ordered upon this resolution and it was adopted, ayes 49, noes 39.

Mr. Magone remarked that he approved of the suggestion of the gentleman from Iowa, and introduced a resolution instructing the select committee having in charge the bill of rights to report an article that no member of this convention should be eligible to office for two years after the adoption of the constitution, but as its consideration involved a suspension of the rules, which was not sustained, it was laid over until tomorrow.—*Express,* Nov. 10, 1846.

Mr. Tweedy introduced the following resolution, which was read, to wit: "*Resolved,* That the following be adopted as part of the constitution of this state, to wit: 'Every member of this convention shall be disqualified from holding any office of profit or trust under the

constitution of this state, until the end of two years next after the organization of the government of this state.' ''

The convention then resolved itself into committee of the whole for the consideration of No. 15, ''Preamble,'' Mr. Giddings in the chair. And after some time spent therein, rose and by their chairman reported the same back to the convention with an amendment.

The amendment of the committee of the whole to said article was then concurred in.

Mr. Bevans moved to amend by striking out all after the word ''we'' and inserting as follows: ''The people of Wisconsin, grateful to Almighty God for our prosperity and freedom, and believing that the time has arrived when it is proper to avail ourselves of our right to form a state government and to enter the Union of the United States as a free, sovereign, and independent state by the name of the state of Wisconsin, do ordain and establish the following constitution for the government thereof.''

Moses M. Strong moved to amend the amendment by striking out the words ''grateful to Almighty God for our prosperity and freedom and.'' And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 10, negative 73; for the vote see Appendix I, roll call 78].

Moses M. Strong moved to amend by striking out the words ''and the law of Congress approved August 6, 1846, entitled 'An Act to enable the people of Wisconsin Territory to form a constitution and state government, and for the admission of such state into the Union,' '' and also to insert the word ''and'' before the words ''the ordinance.''

Mr. Beall called for the previous question, which was ordered. And the question having been put, ''Shall the main question be now put?'' it was decided in the affirmative.

The question was then put on the amendment of Moses M. Strong and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 70, negative 9; for the vote see Appendix I, roll call 79].

The question then recurred on the amendment offered by Mr. Bevans. And having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 13, negative 68; for the vote see Appendix I, roll call 80].

By the unanimous leave of the convention the words ''territory of'' were stricken out. Said article was then ordered to be engrossed for a third reading.

Mr. Strong of Iowa moved to strike out the whole and insert ''We, the people of Wisconsin, do ordain and establish this constitution for the government of this state.''—*Democrat,* Nov. 7, 1846.

The convention then resolved itself into committee of the whole, Mr. Giddings in the chair, on article No. 15—Preamble—and after some fifteen minutes spent therein rose and reported it back to the house with an amendment offered by Moses M. Strong still pending.

Moses M. Strong then renewed the amendment and strenuously objected to the manner in which this matter had been hurried through the committee of the whole merely because it emanated from a member of the dominant faction of the Democratic party in this convention, to the exclusion of numerous amendments which were intended to be offered by himself and others who were in the minority so far as these factional party lines were drawn. He gave the "Progressives" a severe lecture upon their conduct in this matter, calling it a degradation of principle, and other like terms. Mr. Strong called for the previous question, but subsequently withdrew the call.

Mr. Bevans introduced an amendment, which acknowledged the existence and force of the Ordinance of 1787; which was objected to by Moses M. Strong, because it contained an acknowledgment of the grace and beneficence of God in permitting us to form a state government, to which acknowledgment he was strongly opposed, because there had been enough said about this subject in the bill of rights. Mr. Ryan objected to it because it contained an acknowledgment of the existence of the Ordinance of 1787, and of what he termed the beggarly act of 1840.

Moses M. Strong offered an amendment to the amendment of Mr. Bevans, when the previous question was called for and sustained.

The question was first taken upon the amendment of Moses M. Strong, and it was adopted.

The question recurred upon an amendment of Mr. Bevans, and it was rejected, ayes 13, noes 68.—*Express,* Nov. 10, 1846.

The convention then resolved itself into committee of the whole for the consideration of No. 16, "Article on municipal corporations," Mr. Ellis in the chair. And after some time spent therein, the committee rose and by their chairman reported the said article back to the con-

vention with amendments. The amendments of the committee of the whole were then concurred in.

Moses M. Strong moved to amend by adding "Section 2. No municipal corporation shall at any one time contract any debt exceeding one thousand dollars, nor shall the aggregate of indebtedness of any corporation at any one time exceed ten thousand dollars," which was disagreed to.

Mr. Tweedy moved to amend the said article as follows: "Section 2. No municipal corporation shall have power to contract debts without first providing for the payment of the principal and interest of such debts by a direct annual tax, sufficient to pay or discharge such principal and interest within — years, which tax shall not be altered or repealed until such debt shall be discharged."

And the question being on filling the blank, Mr. Tweedy moved that the same be filled with the number "twenty-five," which was disagreed to.

Mr. Lovell moved to fill the blank with the number "twelve," which was disagreed to.

Mr. Ryan moved to amend by filling the blank with the word "ten," which was accepted by the mover as a modification of the original amendment.

The question was then put on adopting the amendment as modified, and was decided in the affirmative. And a division having been called for, there were 50 in the affirmative, negative not counted.

Moses M. Strong moved to amend by adding "Section 3. No municipal corporation shall have power to contract any debt exceeding — thousand dollars," when Asa Kinne called for the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the negative. And a division having been called for, there were 33 in the affirmative and 36 in the negative. So the said article was laid over until tomorrow under the rules.

On motion of Moses M. Strong the convention took a recess until two o'clock, P. M.

Mr. Magone moved to amend the first section so as to read: "The legislature shall provide for the creation and government of municipal corporations," which was adopted.

N. F. Hyer moved to strike out the section as amended.

Mr. Tweedy moved to amend the last motion by inserting in lieu of the section stricken out a substitute, which was read and adopted.

Mr. Noggle offered an amendment to the second section, prohibiting any municipal corporations from contracting debts for any purpose whatever, without first providing for the payment thereof, which was adopted.

Moses M. Strong moved to strike out the whole section and insert a substitute, viz., "No municipal corporation shall have power at any time to contract any one debt over one thousand dollars, nor shall such debts exceed ten thousand dollars in the aggregate," which was rejected.

Mr. Gray moved to strike out the second section, which was carried.

The committee then rose and reported the article back to the house as amended.—*Express,* Nov. 10, 1846.

TWO O'CLOCK, P. M.

No. 17, "Article on boundaries and name of the state," No. 3, "Article on eminent domain and property of the state," and No. 11, "Article relative to the act of Congress for the admission of the state," were taken up, when Mr. Doty moved that the further consideration of the said articles be postponed until Thursday the twelfth instant and that they be made the special order of the day for that day, which was agreed to.

The convention then resolved itself into committee of the whole for the consideration of No. 18, "Article on the executive of the state," Moses M. Strong in the chair. And after some time spent therein, the committee rose and by their chairman reported the same back with amendments.

Pending the question on concurring in the report of the committee of the whole, on motion of Moses M. Strong the convention adjourned.

The Executive

Mr. Ryan endeavored to strike out the clause providing for the election of a lieutenant governor, but was unsuccessful.

The cause affixing the salary of the governor caused considerable debate. It was fixed in the report at $1,500 and efforts were made in all parts of the house to reduce it to $1,200, $1,100, $1,000, $800, and $500, all of which failed. Messrs. Dennis, N. F. Hyer, Beall, and J. Allen Barber were the most strenuous supporters of the reduction.

Mr. Magone opposed a reduction of the salary of governor from the amount reported by the committee. He could not subscribe to the "penny-wise and pound-foolish" doctrine advocated by the gentleman from Marquette (Mr. Beall). He (Mr. Magone) felt disposed to elect men who were qualified to fill

the various state offices and pay them for their services an adequate compensation. The gentleman from Grant (Mr. Barber) had said that in Maine the governors were generally lawyers and that their offices did not interfere with their professional business. He, for one, doubted the expediency as well as the economy of elevating men to the gubernatorial chair who, like the Yankee schoolmaster, were willing to take twelve dollars a month and board round with the neighbors, or pettifog suits before a justice of the peace. As to small salaries, he thought the system deplorable. The fact was notorious that the ablest statesmen of the different states had invariably sought federal appointments instead of devoting their talents to the advancement of their different states. The reason was obvious: the federal government paid salaries commensurate with the duties to be performed, whereas the states had pursued a different course, and in their notions of rigid economy had dispensed with the services of men who no doubt would have saved them from the stigmas of bankrupts and repudiators. If the governor was to be paid but a thousand dollars per annum, it should not be by his vote.

J. Allen Barber offered an amendment that the governor should receive annually the sum of $1,500 and reside at the capital.

A. Hyatt Smith offered as an amendment that the governor should be provided with a house at the expense of the state, which was the source of considerable ridicule to the mover. The amendment was finally so amended as to read "And the governor shall be furnished with a house, outhouses, and furniture, with a coach and eight bobtailed horses, and footmen, and everything, and said governor shall be neither 'tadpole,' 'crawfish,' or 'soft,' but a 'Regular' "; and it was then unanimously rejected. The section as amended by Mr. Barber was adopted.

The section empowering the governor to grant reprieves and pardons and to commute the sentence of death gave rise to some debate, but was finally adopted without material amendment.

The section allowing the lieutenant governor four dollars per day during his attendance as president of the senate was

amended, and he is to receive "double the per diem of members of the senate."

After some further discussion the article passed, and the committee took up the article on administrative.

There was some debate upon the compensation to be allowed the different administrative officers. The secretary of state is to be allowed $1,000 per annum and keep his office at Madison. The section defining the powers and duties of the treasurer, auditor, and attorney general, and affixing their compensations was under consideration, when on motion of Mr. Berry the committee rose and reported the articles back to the house with the amendments adopted.

The convention then adjourned.—*Express,* Nov. 10, 1846.

SATURDAY MORNING, NOVEMBER 7, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Mr. Steele, from the committee on miscellaneous provisions, made the following reports, which were read, referred to the committee of the whole, and ordered to be printed to wit:

"The committee on miscellaneous provisions, to whom was referred the resolution No. 5, respectfully report:

"That they have well considered the matter referred to them and have come to the unanimous conclusion that it is not expedient to incorporate a clause in the constitution prohibiting any and every person or persons from purchasing or owning any real estate within the limits of this state who are not capable of becoming citizens of the United States. That the subject is one more properly within the jurisdiction of the legislature.

"Respectfully submitted,

E. STEELE, Chairman
J. D. DOTY
W. CHASE"

"The committee on miscellaneous provisions, to whom was referred a resolution relative to the tenure of leasehold estates, report the following as the result of their deliberations:

"Section —. All leases or grants of agricultural lands for a longer period than twelve years, hereafter made, in which rent or service of any kind shall be reserved, shall be void."

"The committee to whom was referred the resolution relative to license report:

"Section 1. The legislature shall have no power to pass any law restricting trade.

"The committee would further report that they deem it inexpedient to incorporate in the constitution any other of the matters referred to in the resolution."

"The committee on miscellaneous provisions, to whom was referred the resolution No. 2, respectfully report: In relation to the first proposition they submit an article herewith:

"That the committee have weighed well the second proposition and do not deem it expedient to engraft a clause in the constitution, prohibiting any person from holding office under the government of the future state on account of his religious persuasion, professions, or duties. That such a proposition as is sought by this resolution to be engrafted in the constitution would restrict the people in the choice of

their servants or agents, which should never be permitted in a free country. That the calling of a minister of the gospel is adverse to the life of a politician is admitted on all sides, but that because a person has chosen one profession that he should be restrained from changing his business and entering into the strifes of the world if he should see fit so to do is contrary to all true principles. We hold that the true system of legislation is to grant to all mankind the greatest freedom in any pursuit in which they see fit to engage, which does not infringe upon the rights of others.

"We therefore report adverse to the proposition to exclude and prohibit ministers of the gospel from holding office under the state government.

"To the third proposition the committee have only to say that the matter is under advisement with them from another source.

"Respectfully submitted,
E. STEELE, Chairman"

"Section 1. The political year for the state of Wisconsin shall commence on the first day of January in each year."

Mr. Hunkins, from the committee on engrossment, reported No. 15, "Preamble," as correctly engrossed.

Mr. Magone introduced the following resolution, which was read, to wit: "*Resolved,* That the president be instructed to inform the sergeant at arms that this convention is prepared to dispense with his valuable services."

Mr. Dennis introduced the following resolution which was read, to wit: "*Resolved,* That Edward Coombs, a delegate from the county of Richland, be entitled to $19, for 95 miles travel in attending this convention, and that the treasurer of the territory be directed to pay the same."

Mr. Dennis moved that the rules be suspended for the consideration of said resolution, which was agreed to. The said resolution was then adopted.

Mr. Clothier introduced the following resolution, which was read, to wit: "*Resolved,* That it is unnecessary to declare the disqualification of members of this convention to hold offices of trust or profit for the term of two years after the adoption of this constitution in this state, no danger being apprehended that the people will need their services for many years to come.

"*Resolved,* That though the fact may exist, that some members may disqualify themselves by their political dishonesty, it is not conclusive evidence that all will do so, or that the fact should be incorporated in the constitution."

The following resolution, introduced on the fifth instant, was then taken up and adopted, to wit: "*Resolved,* That there be allowed to E. B. Dean Jr. the sum of $900 for stationery furnished the convention, provided the said Dean receives the above amount as in full for his bill presented.

"To Darwin Clark $462.25, in full, for 43 desks furnished the convention.

"To J. Gillett Knapp, $43.99, advanced by said Knapp for hauling lumber to fit up room for the convention.

"To Simeon Mills & Co., publishers of the *Wisconsin Argus*, $100, as part pay for newspapers furnished the convention.

"To W. W. Wyman, publisher of the Madison *Express*, $100, as part pay for newspapers furnished the convention.

"To Beriah Brown, publisher of the *Democrat* [$100] as part pay for newspapers furnished the convention.

"*Resolved*, That the treasurer of the territory be directed to pay the above appropriations out of any funds in [his] hands which are subject to the control of this convention."

George B. Smith presented the account of Levi Putnam, for putting down carpet, etc., which was referred to the committee on expenses.

The resolution introduced by Mr. Magone on yesterday, relative to disqualifying members of this convention from holding office, was taken up, when Mr. Edgerton moved to amend the same by inserting between the words "convention" and "shall" the words "nor any officer now holding office in this territory, by appointment of the president of the United States, or by the governor of Wisconsin."

W. Chase moved that the said resolution be laid on the table. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 44, negative 46; for the vote see Appendix I, roll call 81].

Mr. Gray called for the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on the amendment offered by Mr. Edgerton and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 40, negative 48; for the vote see Appendix I, roll call 82].

The question then recurred on the original resolution. And having been put, it was decided in the affirmative.

And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 47, negative 42; for the vote see Appendix I, roll call 83].

Mr. Huebschmann, by leave, introduced the following resolution, which was read, to wit: "*Resolved*, That the committee who have under consideration the just passed resolution be instructed to report a section excluding all delegates to this convention, and the present officers of the territory, by election and appointment, whether appointed by the president of the United States or the governor of the territory, from any chance to be elected to the Senate or House of Representatives of Congress for the next two years."

Mr. Dennis moved that the rules be suspended for the consideration of the said resolution, which was agreed to.

The rules were suspended for the present consideration of the above, and as a matter of course it gave rise to much talk.

Moses M. Strong opposed it; he was in favor of and had voted for the resolution rendering members ineligible to any office in the state for the next two years, inasmuch as these offices were created by this convention, and it was an old-established and excellent principle that they should be prohibited from holding any office of their own creation. But the offices in question were not of their creation, and there was no good reason why members of this convention should be disqualified from holding them.

Mr. Noggle would vote for this resolution, but if it failed he hoped the vote disqualifying members from holding offices in this state would also fail. He approved of the principle involved, but saw no good reason why all should not be placed upon the same footing. If a member was to be prohibited from holding a judicial office in the state, he should also be disqualified from holding a higher office out of the state.—*Express*, Nov. 10, 1846.

Mr. Barber said before the vote was taken on the resolution now under consideration [that of Mr. Huebschmann] he wished to say a few words in regard to the propriety of its adoption in connection with the one first passed, introduced yesterday by another gentleman from Milwaukee instructing the committee having in charge the article on a bill of rights to report an amendment prohibiting any delegate of this convention from holding any office created under the constitution we are about forming until the expiration of two years after its adoption.

I did not suppose, sir, when this matter was introduced yesterday that it was intended in seriousness by the mover, nor did I suppose a majority of this body would deem it necessary to pass any such resolution to exonerate themselves from charges made against them, let them come from what quarters they might. But it appears from the vote just taken they consider it otherwise. But, sir, before I acknowledge the propriety or necessity of this act of compurgation I desire to examine the foundation of these charges and see if they are en-

titled to the consideration this body by its acts is giving them. The first intimation of a charge against the majority of this body, as being actuated by undue influences, I believe made its appearance in the correspondence of a little seven-by-nine sheet printed in a remote corner of this territory, in which it was directly charged upon this body as designing to throw overboard all the old, well-tried, good, and true men of the party, naming several distinguished individuals of the territory and, among others, some gentlemen occupying seats upon this floor. This, sir, was treated, as it deserved to be, by every member of this body with silent contempt. But, sir, yesterday, the honorable gentleman from Iowa (Mr. Strong) charged it directly upon the majority of this body as being governed by no higher considerations than an endeavor "to make big men out of little men." Yes, sir, he said there were two parties in this body, the one endeavoring to make big men out of little men, and the other trying to make little men out of big men."

(Mr. Strong said he would correct the gentleman from Dodge. He said yesterday there were two parties on this floor; the majority were trying to make big men out of little men, and to make little men out of the big men).

Mr. Barber said—I am willing the gentleman should correct himself. I understood him as I have stated. But if the gentleman had misspoke or been misunderstood, I am willing to take his correction of what he said. And all I have to say in regard to that matter is that, although I have found myself voting most of the time with a majority of this body, yet I have been actuated by no such motives. I came here for no such purposes whatever, and I would say to gentlemen on this floor, if they came here for any such purpose, they have in my judgment entirely mistaken the place. The seat I occupy upon this floor as a member of this body was conferred upon me by the voluntary suffrage of a majority of the people of the county I have the honor in part to represent here, unsolicited on my part. And, sir, I consider myself sent here solely to aid in forming a constitution for the future state of Wisconsin, and shall as far as my action is concerned endeavor to form a constitution suited to the condition and wants of the people—to

frame a government under which every citizen may enjoy the blessings of civil and religious liberty.

Had I, sir, desired to occupy any post under your state government, this is the last place I should have sought to attain that object. I have seen too often the disposition in after years to mystify and misrepresent the votes of members of the convention to amend the constitution of my native state, when candidates for office, to believe for a moment that any member of this convention can so shape his votes here that they will not be brought up against him by partisan politicians, should he be a candidate for office hereafter. But gentlemen who voted for the resolution disfranchising members of this convention from holding office under the state government, now when it is proposed to extend that measure to your representatives in the Senate and House of Representatives of the United States, they are ready to oppose it, and they see a distinction in principle between the two. I, sir, can see no distinction in principle, nor no reason that would apply to the former that would not to the latter.

Sir, do we propose to fill any of the offices to be created under our constitution? Do we not leave them all to be filled by the people? And will they not claim the right to fill them with such individuals as they may choose regardless of what may be done here? Does any gentleman on this floor suppose that any action of this body can confirm on one member a preference for office over another, after his return to the people? I beg leave to say to gentlemen here that there is remaining amongst the people at home a larger array of men equally talented, equally capable, and every way as well fitted to fill the various offices under our state government as the members of this convention, and gentlemen, too, who will not acknowledge that we have obtained a right to office any the more for being members of this convention, and I deem it wholly unnecessary that we should take any direct action to disqualify ourselves from holding any office for the next two years. But, if gentlemen think otherwise, then I hope it will be extended to all embraced in both resolutions. I therefore hope the resolution now pending will be passed.—*Democrat,* Nov. 14, 1846.

Mr. Agry called for the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on the adoption of the said resolution, and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 47, negative 39; for the vote see Appendix I, roll call 84].

Mr. Lovell moved that the vote on the adoption of the said resolution be reconsidered, when Mr. Huebschmann moved that said motion be laid upon the table. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 53, negative 34; for the vote see Appendix I, roll call 85].

Article No. 15, "Preamble," was then taken up and read a third time. And the question being on the passage of the said article, and having been put, it was decided in the affirmative. And the ayes and noes having been ordered under the rule, those who voted in the affirmative were [affirmative 83, negative 1; for the vote see Appendix I, roll call 86].

So the article was passed, and the title thereof was agreed to.

Mr. Baird asked for leave of absence for Mr. Drake. Leave was granted.

Mr. Noggle asked for leave of absence for Mr. Parkinson. Leave was granted.

Mr. Magone moved that the convention do now adjourn. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 12, negative 71; for the vote see Appendix I, roll call 87].

No. 16, "Article on municipal corporations," was then taken up. And the question being on the pending amendment offered by Moses M. Strong and having been put it was decided in the affirmative. And a division having been called for, there were 51 in the affirmative, negative not counted.

Mr. Tweedy moved that the said article be referred to a select committee to revise the same, which was agreed to. The President then announced the appointment of the following committee, to which the said article was referred, to wit: Messrs. Tweedy, Hunkins, Bennett, Whiteside, and Granger.

Mr. Agry moved that the convention do now adjourn, which was disagreed to. And a division having been called for, there were 21 in the affirmative, negative not counted.

No. 18, "Article on the executive of the state," was then taken up, when Mr. Berry moved that the convention do now adjourn. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 53, negative 33; for the vote see Appendix I, roll call 88].

So the convention adjourned.

Monday, November 9, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday [Saturday] was read.

Mr. Noggle presented the certificate of election of Joseph Kinney Jr. as a member of this convention from the county of Rock, which was ordered to be filed and the said Kinney admitted to a seat.

Leave of absence was asked for and granted to members of this convention as follows: By Mr. Bevans, for Mr. Gray; by Mr. Cooper, for Messrs. Magone and Graham; by Asa Kinne, for Charles E. Browne.

The President laid before the convention the report of the clerk of the supreme court, and also of the clerk of the district court of the county of Fond du Lac, which were read and referred to the select committee to whom the previous reports had been referred.

Mr. Patch presented the petition of G. W. Green and 85 others, relative to the exemption of a certain amount of property from execution, etc., which was read and on his motion referred to the committee on miscellaneous provisions.

George B. Smith presented the account of Wm. Pyncheon for work on the convention chamber, which was referred to the committee on the expense of the convention.

Mr. Agry, from the committee on the powers, duties, and restrictions of the legislature, reported No. 24, "Article on the powers, duties, and restrictions of the legislature."

"The committee on the powers, duties, and restrictions of the legislature report the following article:

"Section 1. The legislative powers of the state shall be vested in two distinct branches to be styled respectively the senate and house of representatives and both together the legislative assembly of the state of Wisconsin.

"Section 2. When vacancies occur in either house, the governor or other person exercising the powers of the governor shall issue writs of election to fill such vacancies.

"Section 3. Elections for senators and representatives shall be general throughout the state and shall be regulated by law.

"Section 4. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns, and qualifications of its own members, and shall choose its own officers; and the senate shall choose a temporary president, when the lieutenant governor shall not attend as president, or shall act as governor.

"Section 5. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare

shall require secrecy. Neither house shall without the consent of the other adjourn for more than two days.

"Section 6. For any speech or debate in either house of legislature the members shall not be questioned in any other place.

"Section 7. Any bill may originate in either house of the legislature, and all bills passed by one house may be amended by the other.

"Section 8. The enacting clause of all bills shall be 'It is enacted by the legislative assembly of the state of Wisconsin.'

"Section 9. The legislature may confer upon the boards of supervisors of the several counties of the state such further powers of local legislation and administration as they shall from time to time prescribe.

"Section 10. The house of representatives shall have the power of impeachment by a vote of the majority of all the members elected.

"Section 11. The legislature shall provide for the creation and government of municipal corporations by general and uniform laws.

"Section 12. The legislature shall pass general laws under which, and not otherwise, corporations other than those of a municipal and political character shall be formed; and all laws passed pursuant to this section may be altered from time to time, or repealed.

"Section 13. The members of such corporations shall be individually liable for the debts, liabilities, and acts thereof.

"Section 14. The state shall derive no revenue, directly or indirectly, from property taken from private individuals for public use.

"Section 15. No private or local bill which may be passed by the legislature shall embrace more than one subject, and that shall be expressed in the title.

"Section 16. No law shall be amended or revived by reference to its title, but in such case the section amended or the act revived shall be reënacted and published at length.

"Section 17. The legislature shall have no power to pass retroactive laws, or laws impairing the obligation of contracts or their remedies.

"Section 18. The legislature shall pass no laws interfering with the liberty of trade or industry.

"Section 19. It shall be the duty of the legislature to require by law the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools.

"Section 20. The state shall have no power to contract debts or to loan its credit, except in case of war, invasion, or insurrection.

"Section 21. The legislature shall never grant extra compensation to any public officer, agent, servant, or contractor after the service shall have been rendered or the contract entered into, nor grant by way of appropriation or otherwise any amount of money to any individual on any claim, real or pretended, when the same shall not have been provided for by preëxisting law.

"Section 22. Members of the legislature and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall before they enter upon the duties of their respective offices take and subscribe the following oath or affirmation: 'I do solemnly swear (or affirm as the case may be) that I will support the Constitution of

the United States and the Constitution of the state of Wisconsin, and that I will faithfully discharge the duties of the office of —— according to the best of my ability.'

"All which is respectfully submitted.

D. Agry, Chairman"

Which was read the first and second times, referred to the committee of the whole, and ordered to be printed.

Mr. Tweedy, from the select committee to which articles Nos. 5, 6, and 7, and sundry resolutions of the convention were referred, reported article No. 25, "Report of the select committee on articles Nos. 5, 6, and 7, and sundry resolutions referred to said committee."

"The committee, to whom were referred articles Nos. 5, 6, and 7, with the amendments pending thereto, respectively, and also resolutions Nos. 1, 2, and 4 of the 31st October ult., with instructions, beg leave to report the same back to the convention, together with substitutes for the said several articles, which they recommend to be adopted by the convention; and also certain resolutions, which the committee believe will be found to cover the whole ground of inquiry submitted to them.

"All of which is respectfully submitted.

E. G. Ryan, Chairman"

Article on Internal Improvements

"Section 1. This state shall encourage internal improvements by individuals, associations, and corporations, but shall not carry on, or be a party in carrying on, any work of internal improvement, except in the cases authorized by the second section of this article.

"Section 2. When grants of land or other property shall have been made to the state, specially dedicated by the grant to particular works of internal improvement, the state may carry on such particular works, and shall devote thereto the avails of such grants so dedicated thereto; but shall in no case pledge the faith or credit of the state or incur any debt or liability for such works of internal improvement.

"Section 3. All lands which shall come to the state by forfeiture or escheat, or by grant, where the grant does not specially dedicate the same to any other object, shall be held by the state as part of the state school fund, under the same trusts, reservations, and restrictions as are provided in this constitution in regard to school lands proper."

Article on Taxation, Finance, and Public Debt

"Section 1. All taxes shall be uniform and shall be levied on all property not exempt from taxation, in equal ratio to the value thereof, without discrimination. Capitation taxes, nevertheless, may be levied for highway labor, but for no other purpose.

"Section 2. The legislature shall have power to exempt from taxation all property belonging to the state or to the United States. All public school or university lands, and all property belonging to any

school or other institution of learning, supported in whole or in part by any public school fund or tax; all public churches and all public burial grounds; and such amount of household furniture as may be provided by law.

"Section 3. No money shall ever be paid out of the treasury of this state, except in pursuance of an appropriation by law.

"Section 4. The credit of the state shall never be given or loaned in aid of any individual association or corporation.

"Section 5. There shall be published by the treasurer, in at least one newspaper printed at the seat of the government during the first week in January in each year, and in the next volume of the acts of the legislature, a detailed statement of all moneys drawn from the treasury during the preceding year, for what purpose, and to whom paid, and by what law authorized.

"Section 6. There shall never be issued by or in any way on behalf of the state any scrip or other evidence of state debt, except in the cases and manner authorized in the ninth and tenth sections of this article.

"Section 7. This state shall never contract any public debt, unless in time of war, to repel invasion or to suppress insurrection, except in the cases and manner provided in the ninth and tenth sections of this article.

"Section 8. The legislature shall provide for an annual tax sufficient to defray the estimated expenses for each year; and whenever it shall happen that the expenses of the state for any one year shall exceed the income of the state for such year, the legislature shall provide for a tax for the ensuing year, sufficient with other sources of income to pay the deficiency of the preceding year together with the estimated expenses of such ensuing year.

"Section 9. For the purpose of defraying extraordinary expenditures, the state may contract public debts; but such debts shall never, singly, or in the aggregate, exceed $100,000. Every such debt shall be authorized by law, for some single work or object to be distinctly specified therein; and no such law shall take effect until it shall have been passed by two successive legislatures, by the votes of two-thirds of the members of each house, to be recorded by yeas and nays on the journals of each house respectively; and every such law shall levy an annual tax sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within five years from the final passage of such law by the second legislature, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, and such taxes shall not be repealed, postponed, or diminished, until the principal and interest of such debt shall have been wholly paid.

"Section 10. All debts authorized by the preceding section shall be contracted by loan on state bonds, of amounts not less than $500 each, on interest payable within five years after the final passage of the law authorizing such debt, and such bonds shall not be sold for less than par. A correct registry of all such bonds shall be kept by the treas-

urer in numerical order so as always to exhibit the number and amount issued, the number and amount unpaid, and to whom severally made payable.

"Section 11. On the final passage in either house of the legislature of any law which imposes, continues, or renews a tax, or creates a debt or charge, or makes, continues, or renews an appropriation of public trust money, or releases, discharges, or commutes a claim or demand of the state, the question shall be taken by yeas and nays, which shall be duly entered on the journals; and three-fifths of all the members elected to each house shall in all such cases be required to constitute a quorum therein.

"Section 12. The money arising from any loan made or debt or liability contracted shall be applied to the work or object specified in the act authorizing such debt or liability, or to the repayment of such debt or liability, and to no other purpose whatever."

Article on Corporations Other Than Municipal

"Section 1. Corporations may be formed under general laws; but no corporation shall be created, extended, or renewed by special act, except in the cases and manner authorized by this article and the article on municipal corporations.

"Section 2. The legislature shall have power to alter, amend, or repeal all general laws for incorporations, and all corporations formed thereunder shall be thereby altered, amended, or repealed.

"Section 3. Every general law for incorporations shall embrace only one distinct special object of incorporation, which shall be expressed in the title thereof, and no corporation shall be organized under any two acts, general or special.

"Section 4. The legislature shall have power to incorporate by special act any corporation for special objects of internal improvement; but no such act shall embrace more than one distinct and special work; and no such act shall take effect until it shall have been passed by two successive legislatures, by a majority of all the members elected to each house, to be ascertained by yeas and nays to be duly entered on the journals of each house respectively.

"Section 5. The legislature shall have power to pass special acts of incorporation for purposes other than internal improvements, in cases in which the objects of the incorporation could not in the judgment of the legislature be obtained under any general law; but no such act shall take effect until it shall have been passed in the same manner provided in the preceding section of this article.

"Section 6. The legislature shall have power to alter, amend, or repeal any special act of incorporation by a majority of two-thirds of the members elected to each house of one legislature; or by a majority of all the members elected to each house of two successive legislatures, and in all such cases the votes shall be taken by yeas and nays to be duly entered on the journals.

"Section 7. All members of every corporation formed under any general or special law shall individually be jointly and severally liable for all debts and liabilities of such corporation contracted or incurred at any time before they respectively finally ceased to be members of such corporation or during three months thereafter; and no member of any corporation shall be released from such liability by the repeal or dissolution of such corporation.

"Section 8. The legislature shall in all general and special acts of incorporation provide for some convenient record, to be kept by some public officer in the county in which the principal place of business of each such corporation shall be, containing a full list of the names of all stockholders of such incorporation, their respective residences, the day when each ceases to be such stockholder, and to whom his stock is transferred; and no person ceasing to be a stockholder in any corporation shall be freed from liability for the debts and liabilities of such corporation contracted or incurred after he ceased to be a stockholder therein until three months after such record shall have been made.

"Section 9. Neither the state, nor any county, town, or municipal corporation shall be a stockholder in any corporation."

Resolutions

"*Resolved,* That the legislature shall, at its first session, pass an act forever refusing the assent of this state to the provisions of an act of Congress entitled 'An Act to grant a quantity of land to the territory of Wisconsin, for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock River,' approved the eighteenth day of June, 1838, and refusing the grant therein made, and refusing to assume the trusts thereby created.

"*Resolved,* That the state of Wisconsin does hereby refuse to assent to the provisions of an act of Congress, entitled 'An Act to grant a certain quantity of land to aid in the improvement of the Fox and Wisconsin rivers, and to connect the same by a canal, in the territory of Wisconsin,' approved the sixth day of August, 1846, and does hereby refuse the grant thereby made; but does hereby request Congress to pass an act granting the net proceeds of the lands granted by the act last mentioned, when sold by the United States under the laws and regulations of their land offices to this state in aid of the work mentioned in the said act, to be paid over to the proper officer of this state from time to time, and in case Congress shall pass such an act, then the funds accruing from such grant are hereby irrevocably pledged to the work mentioned in the said act of the sixth day of August, 1846.

"*Resolved,* That Congress be requested upon the admission of this state into the Union to pass an act whereby the grant of 500,000 acres of land to which this state is entitled by the provisions of an act of Congress entitled 'An Act to appropriate the proceeds of the sales of the public lands, and to grant preëmption rights,' approved the fourth day of September, 1841, and also the five per centum of the net proceeds of the public lands lying within this state, to which this state

shall become entitled on her admission into the Union, by the provisions of an act of Congress entitled 'An Act to enable the people of Wisconsin Territory to form a constitution and state government, and for the admission of such state into the Union, approved the sixth day of August, 1846, shall be granted to this state for the use of schools, instead of the purposes mentioned in that behalf in the said acts of Congress respectively.

"*Resolved,* That the foregoing resolutions be appended to and signed with the constitution of this state, submitted therewith to the people of this territory, and to the Congress of the United States."

Which was referred to the committee of the whole and ordered to be printed.

Mr. Lovell asked that leave of absence be granted to Mr. Ryan, which was agreed to.

Mr. Steele introduced the following resolution, to wit: "*Resolved,* That the officers of this convention be allowed the same rates of mileage in coming to and returning from this place as members of the convention."

Mr. Noggle introduced the following resolution, to wit: "*Resolved,* That the treasurer of the territory be instructed to pay to Joseph Kinney Jr. the sum of fifteen dollars, his mileage for seventy-five miles travel in coming to attend this convention as a delegate. And the rules having first been suspended for that purpose, the said resolution was taken up and adopted.

Mr. O'Connor introduced the following resolution, which was read, to wit: "*Resolved,* That the superintendent of territorial property be requested to purchase four reams of wrapping paper and wafers for the use of the convention, and that the treasurer be requested to pay the same on the draft of the superintendent." Mr. Noggle moved that the rules be suspended in order that the said resolution be considered now, which was agreed to. The said resolution was then adopted.

Resolution No. 2 of Saturday, relative to the disqualification of members of this convention from holding any office under the state government for two years, was taken up, when Warren Chase moved that the said resolution be laid on the table, which was agreed to.

Resolution No. 1 of November 7, relative to the sergeant at arms, was taken up, when Mr. O'Connor moved that the said resolution be laid on the table, which was agreed to.

Resolutions Nos. 3 and 4 of November 7, introduced by Mr. Clothier, were taken up and on motion laid on the table.

The unfinished business of Saturday last was then taken up, being No. 18, "Article on the executive of the state." Mr. Agry moved that said article be postponed and made the special order of the day for Saturday next, which was disagreed to. And the question being on concurring in the amendments reported by the committee of the whole to said article, a division of the question was called for. And the question being on concurring in the first amendment of the committee of the whole thereto, Mr. Prentiss moved to amend the same by striking out the words "shall reside at the seat of government." And the ques-

tion having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 66, negative 15; for the vote see Appendix I, roll call 89].

Mr. Beall moved to amend the amendment as amended by striking out the number "fifteen hundred," and inserting the number "eight hundred." And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 43, negative 40; for the vote see Appendix I, roll call 90].

Asa Kinne moved to amend by striking out the fifth section and inserting as follows: "The governor shall receive as a compensation for his services, annually, the sum of $1,000." And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 54, negative 28; for the vote see Appendix I, roll call 91].

Mr. Elmore moved to amend by striking out all after the word "governor" and inserting "shall receive such compensation as the legislature may by law direct, which compensation shall not be increased or diminished during the term for which he was elected," when Moses M. Strong called for the previous question, which was not ordered.

The question was then put on the adoption of the amendment of Mr. Elmore, and was decided in the negative.

Mr. Steele moved to amend by striking out all after the word "governor" and inserting the following words, to wit: "shall for the term of ten years after the adoption of this constitution receive as a compensation for his services, annually, the sum of $800, and shall receive thereafter such sum as shall be established by the legislature, not exceeding the sum of $1,500 per year."

And the question having been put, it was decided in the negative.

And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 14, negative 66; for the vote see Appendix I, roll call 92].

The said amendment as amended was then concurred in.

Mr. Steele moved to amend the sixth amendment of the committee of the whole to said article by striking out the word "ten" and inserting the word "five," which was disagreed to.

The remaining amendments of the committee of the whole to said article were then concurred in.

Mr. Tweedy moved to amend the second section by striking out all after the word "yearly," in the fourth line, and adding the following, "such sum as shall be prescribed by law, not exceeding $1,000; and shall keep his office at the seat of government," when Mr. Bevans moved to amend the amendment by striking out the words "not exceeding $1,000," which was disagreed to. And a decision having been called for, there were 18 in the affirmative and 27 in the negative.

Mr. Bennett moved to [amend the] amendment by striking out the words "not exceeding $1,000" and inserting "not exceeding $500 for the first ten years," which was disagreed to.

J. Allen Barber moved to amend the amendment by striking out the words "not exceeding $1,000" and inserting "$800 per annum for the first ten years," which was disagreed to. And a division having been called for, there were 20 in the affirmative and 34 in the negative.

The question then recurred on the amendment of Mr. Tweedy, and having been put, it was decided in the affirmative. And a division having been called for, there were 41 in the affirmative and 5 in the negative.

Mr. Noggle moved to amend the second section by inserting after the word "state," in the first line, the words "who shall ex-officio be the auditor," and by striking out the words "an auditor," which was agreed to.

Mr. Bennett moved to amend by inserting before the words "unless the legislature," in the twelfth section of said article, the words "and all bills which shall have been presented to the governor twelve hours before the end of the session of the legislature shall be signed by him, or returned with his objections," which was disagreed to. And a division having been called for, there were 26 in the affirmative and 29 in the negative.

Marshall M. Strong moved to amend by striking out the thirteenth section and inserting the following, to wit:

"Every bill which shall have passed both houses of the legislature shall be presented to the governor. If he approve, he shall sign it and transmit it to the secretary, but if not, he shall return it to the house in which it originated, with his objections, which shall be entered on the journal of the house; and if such house shall upon reconsideration again pass it by a majority of all the persons elected to such house, it shall be sent, with the objections, to the other house, and if approved also by a majority of all the persons elected to that house, it shall become a law; but in such cases the votes of both houses shall be determined by ayes and nays and the names of the members voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days after it shall have been presented to him, the same shall become a law in like manner as if he had signed it. And all bills which shall have been presented to the governor twelve hours before the end of the session of the legislature shall be signed by him or returned with his objections."

Wm. R. Smith moved to amend the amendment by striking out the word "three" and inserting the word "ten," which was agreed to.

Mr. Lovell moved to amend the amendment by striking out all after the words "signed it," which was disagreed to. And a division having been called for, there were 11 in the affirmative, negative not counted.

The question then recurred on the amendment offered by Marshall M. Strong. And having been put on the adoption of the said amendment, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 19, negative 56; for the vote see Appendix I, roll call 93].

Mr. O'Connor moved that the convention take a recess until two o'clock, P. M., which was agreed to. And a division having been called for, there were 46 in the affirmative, negative not counted.

TWO O'CLOCK, P. M.

No. 18, "Article on the executive of the state," was taken up, when Asa Kinne moved to amend the third section of the article on the administrative powers by striking out all after the word "yearly" and insert[ing] as follows, to wit: "A sum to be prescribed by law, not exceeding —— dollars, which shall not be increased or diminished during the term for which they shall have been elected"; and strike out all after the word "auditor."

Mr. Hackett moved to fill the blank with 500, which was disagreed to.

Warren Chase moved to amend the amendment by striking out all after the word "law," which was disagreed to. The amendment as amended was then adopted.

Wm. R. Smith moved to amend the fourth section of said article by striking out the following words, to wit: "No officer named in this article shall charge, take, or receive to his own use, any fees or perquisites in his office," which was agreed to.

Mr. Clothier moved to amend by adding to the first section as follows, "and shall not be eligible to the same office more than four years in a term of six years," which was disagreed to.

Wm. R. Smith moved to amend by striking out the word "three," in the ninth line of the third section, and inserting in lieu thereof the word "five," which was disagreed to. And a division having been called for, there were 23 in the affirmative and 33 in the negative.

Wm. R. Smith moved to amend the said article by striking out the fifth section thereof, which was agreed to. And a division having been called for, there were 37 in the affirmative and 17 in the negative.

Mr. Lovell moved to amend the fourth section by striking out the words "such officer" and inserting the words "officer named in this article," which was agreed to.

Mr. Hicks moved to amend the second section by striking out the words "a citizen of the United States and," when Asa Kinne called for the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on the amendment of Mr. Hicks and decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 15, negative 58; for the vote see Appendix I, roll call 94].

The said article was then ordered to be engrossed for a third reading.

No. 12, "Article on the organization and officers of counties and towns, and their powers and duties," was then taken up, when Mr. Phelps moved to amend the first section thereof by striking out the words "town and," which was disagreed to.

Mr. Judd moved to amend by inserting after the word "boards" the words "of supervisors" in the first line of the second section of said article, which was agreed to.

N. F. Hyer moved to amend the third section by striking out 374 and inserting 576 which was disagreed to.

A. Hyatt Smith moved to amend the fourth section thereof by inserting after the word "ineligible" the words "to the same office," which was agreed to.

Mr. Dennis moved to amend the third section of said article by striking it out.

A. Hyatt Smith moved to amend the third section by striking out of the proviso the words "not exceeding in number the said cities," which was agreed to. And a division having been called for, there were 28 in the affirmative and 26 in the negative.

Mr. Huebschmann moved to amend by striking out the proviso, which was disagreed to.

The question was then put on the amendment of Mr. Dennis and was decided in the affirmative. And a division having been called for, there were 51 in the affirmative, negative not counted.

Mr. Judd moved to amend the second section by striking out the words "county boards" and inserting in lieu thereof the words "boards of county officers," which was agreed to.

George B. Hall moved to amend the said article by striking out the words "in every three years," in the fourth section thereof, and inserting in lieu thereof the word "annually," which was disagreed to.

A. Hyatt Smith moved to amend the second section by striking out the word "they" and the word "prescribe" and inserting the words "be prescribed by law."

Mr. Brace called for the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on the amendment of A. Hyatt Smith and was decided in the affirmative.

The question was then put on concurring in the amendments of the committee of the whole as amended and was decided in the affirmative. The said article was then ordered to be engrossed for its third reading.

The resolution introduced by Mr. Randall, relative to colored suffrage, was then taken up, when Mr. Whiteside moved that the said resolution be laid upon the table. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 31, negative 50; for the vote see Appendix I, roll call 95].

Mr. Judd moved that the said resolution be read the first and second times and referred to the committee of the whole, which was agreed to.

Mr. Chase moved that the further consideration of No. 9, "Article on collection of debts," be postponed until Saturday next and be made the special order of the day for that day, which was disagreed to.

Mr. Clothier moved to amend the first section thereof by striking out the words "one hundred dollars" and inserting the words "twenty-five dollars," which was disagreed to.

Mr. Huebschmann moved to amend the said article by striking out the word "dollars" and inserting in lieu thereof the word "cents," which was disagreed to.

A. Hyatt Smith called for the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on ordering the said article to be engrossed for its third reading and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 18, negative 63; for the vote see Appendix I, roll call 96].

No. 19, "Article on license," was taken up, when Mr. Judd moved that the said article be referred to the same committee of the whole which shall have under charge No. 22, "Article prohibiting the restriction of trade," which was agreed to.

The convention then resolved itself into committee of the whole for the consideration of No. 20, "Article to abolish death as a capital punishment," Mr. Phelps in the chair. And after some time spent therein, rose and by their chairman reported the same back without amendment.

Mr. Warren Chase then addressed the committee as follows:

Mr. Chairman: It is with reluctance that I arise to detain the committee for even a few minutes on this important subject. I am aware of the vast amount of time uselessly spent on this floor in long speeches, often on trifling as well as important subjects; but I cannot cast my vote on this subject without craving the privilege of expressing my earnest desire that the long cherished hope of the philanthropists of the age on the subject of capital punishment can be realized in the new and promising state of Wisconsin. I now call upon every friend of humanity, every man who feels within his breast the least spark of human brotherhood, to do his duty by attempting to prevent that most shocking and heart-rending of all scenes in the history of American government—legalized murder. I could have hoped, had I not seen manifestations otherwise, that every member of this convention was prepared to express by his vote approbation of that principle long since settled in moral philosophy, that all punishment should be reformatory and not revengeful; and also of that well-established

principle of political government, that the law should take nothing from the individual which it cannot restore. I believe, sir, it is a well-established principle that man has a natural and inalienable right to life—a right derived from God, and of which he can be justly deprived only by the author of his existence—that the government is none the less guilty of murder, of cruelty, and of violation of the laws of God, when its victim is guilty of the same crime. Crime in the victim can never justify crime in the law. Long have the friends of justice and humanity in the eastern states of this Union struggled to blot from the laws of the land this long-cherished relic of the barbarous ages, and it is a source of joy to be able to say the work has already begun, and to entertain a well-founded hope that it will not cease until this stain is wiped out of the criminal laws of our country.

I have and still do hope that the laws of the state of Wisconsin will never sanction the crime of murder—will never establish within its borders that horrible picture, the very thoughts of which produce a gloom in the soul—the gallows or the chopping block. I have and I do hope that one state will enter this glorious union of states with a law forever prohibiting this wicked, vindictive, and worse than useless mode of punishing crime. I say worse than useless—yes, sooner would I set a mark upon the victim as God did upon Cain and let him go to meet the withering gaze of every human face; but let him live to say, "My punishment is greater than I can bear." Let no one suppose me to be opposed to punishing crime, for I am not; but I do contend that all punishment should be to reform the criminal and not to revenge the injured. I am aware, sir, that many of the advocates of the death penalty deny its principle of revenge and claim that it should be instituted to excite and arouse the fears of community—that the fear of speedy death may prevent the commission of great crimes. Let us examine this reason and see if it will not fade and vanish entirely. Have not the clergy already ceased to preach the "fear of hell" as a justifiable motive for repentance; has not the principle been fully and firmly established that in this enlightened day and age of humanity

man cannot be governed by fear, even though he be sufficiently wicked, corrupt, and depraved to take the life of his brother? Who does not repudiate the very thought that man, like the brute, can be kept in the path of duty by the fear of the lash or the pillory, or even "the fear of hell and the hangman's rope?" I know, sir, that our children are still taught that "the idle fool is whipped at school"; but even this species of corporal punishment is fast fading before the philosophy of the age in the schools of our country. Shall not the laws of our country in the government of man keep in advance of the school-boy discipline of the age? The fear of the rod does not restrain the rogue; the fear of death does not restrain the murderer.

There are some who join with us in attempting to remove this evil and wicked law from our land, prompted by motives entirely different from those which prompt my action, believing the object to be a great and good one. I cordially and cheerfully coöperate with them to accomplish it, never stopping by the way to inquire what motive prompts their action. I allude to those who believe that solitary confinement is a much more severe and a much more to be dreaded punishment than hanging by the neck until dead. To some it may be so, but to me I confess it seems much better to allow the criminal ample time to hold communion with himself, to reflect upon his course, and to prepare, if he will, as well as he can, to meet that eternal and universal law of divine justice which he cannot evade and which we must all abide, and by which all our actions and motives must be tried. Let us, then, have one state to grace the national Union with a banner inscribed by her code of laws unstained by the crime of murder; let us acknowledge by our acts here that He who giveth life alone hath the right to take it—that we are in advance of that age which required "an eye for an eye, and a tooth for a tooth," and he who slays by the sword must be slain by the sword. Let us acknowledge the time already come when

> The pen shall supersede the sword,
> And right, not might, shall be the lord.

—*Express,* Nov. 17, 1846.

Marshall M. Strong moved to amend by striking out the words "and solitary." And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 63, negative 11; for the vote see Appendix I, roll call 97].

Horace Chase moved to amend by striking out the words "as a penalty," when Mr. Elmore called [for] the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on the amendment of Mr. Chase and was decided in the negative.

The question was then put on ordering the said article to be engrossed for its third reading, and having been put, was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 55, negative 22; for the vote see Appendix I, roll call 98].

The convention then resolved itself into committee of the whole on No. 21, "Article prescribing the political year of the state," Mr. Baird in the chair. And after some time spent therein, the committee rose and reported the same back without amendment. The said article was then ordered to be engrossed for its third reading.

Mr. Judd moved that the convention do now adjourn, which was disagreed to. And a division having been called for, there were 32 in the affirmative and 33 in the negative.

The convention again resolved itself into committee of the whole for the consideration of No. 19, "Article on license," and No. 22, "Article prohibiting the restriction of trade," Marshall M. Strong in the chair. And after some time spent therein, rose and reported the same back without amendment.

Mr. Baird moved that No. 19, "Article on license," be laid upon the table, which was agreed to.

Horace Chase moved that the further consideration of No. 22, "Article prohibiting the restriction of trade," be indefinitely postponed, which was disagreed to.

Horace Chase moved to amend by adding the following: "Section 2. The legislature [shall] have no power to pass any law restricting vice of any kind whatever."

Mr. Agry moved the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on the amendment of Mr. Chase and was decided in the negative.

The question was then put on ordering the said article to be engrossed for its third reading and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 12, negative 62; for the vote see Appendix I, roll call 99].

On motion of Mr. O'Connor the convention adjourned.

Tuesday, November 10, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read and corrected.

Mr. Gibson presented the petition of G. D. Curtis and eight others, asking that the elective franchise may be extended to people of color, and moved its reference to the same committee of the whole to which the resolution relative to colored suffrage had been referred, which was agreed to.

Mr. Hunkins, from the committee on engrossment, reported articles Nos. 20 and 21, and Marshall M. Strong, from the same committee, reported articles Nos. 12 and 18 as correctly engrossed.

Mr. Fuller introduced the following resolution, to wit: "Whereas, the custom of licensing theatrical shows and exhibitions, the sale of lottery tickets and of intoxicating liquors recognizes such exhibitions and sales as tending to weaken and debase the public morals, and consequently to work evil to the foundation principles of a republican government, therefore, *Resolved,* That the committee on the powers and restrictions of the legislature be instructed to report an article prohibiting the legislature from licensing or permitting by their sanction such sales and exhibitions in this state."

Mr. James introduced the following resolution, which was read, to wit: "*Resolved,* That it is contrary to the true meaning and intent of this convention for members to leave on business of an ordinary nature, that each member of this convention, in order to discharge the duties imposed upon him by his constituents, should at all times be present, unless on account of sickness or some providential hindrance.

"Therefore, *Resolved,* That no member of this convention shall be entitled to receive any pay as such member during his absence from this convention, unless on account of sickness or some providential hindrance, which shall be shown satisfactorily to this convention."

The resolution introduced by Mr. Steele on yesterday relative to the mileage of the officers of this convention was taken up. And the question having been put on the adoption of the said resolution, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 3, negative 75; for the vote see Appendix I, roll call 100].

No. 12, "Article on the organization and officers of counties and towns and their power and duties," was then taken up and read the third time when Mr. Dennis moved that the same be recommitted to the committee of the whole, which was disagreed to. The question then recurred on the passage of the said article. And having been put, it was decided in the negative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 10, negative 70; for the vote see Appendix I, roll call 101].

No. 18, "Article on the executive of the state," was then taken up and read the third time. And the question having been put on the passage of the said article, it was decided in the affirmative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 69, negative 11; for the vote see Appendix I, roll call 102].

So the article passed, and the title thereof was agreed to.

No. 20, "Article to abolish death as a capital punishment," was then taken up, and read the third time, when Geo. Hyer moved that the convention take a recess until this afternoon at two o'clock P. M., which was disagreed to.

Moses M. Strong moved that the convention take a recess until two o'clock, P. M., which was agreed to.

TWO O'CLOCK, P. M.

No. 20, "Article to abolish death as a capital punishment," it being the business in order, was taken up, when Warren Chase moved that the further consideration of said article be postponed until one week from Tuesday next, which was agreed to. And a division having been called for, there were 49 in the affirmative, negative not counted.

The article abolishing the death penalty being on its third reading, Mr. Judd said that he rose in opposition to the article and when he recollected the large majority by which this article had been ordered to a third reading yesterday he confessed that he felt unusually embarrassed, as he knew that he was to encounter fearful odds. Under such circumstances, nothing but an overpowering sense of duty could have prevailed upon him to detain the convention with any remarks.

It will be recollected by members that this article was hurried through the committee and ordered to a third reading without discussion or debate, except that the gentleman from Fond du Lac (Mr. W. Chase) had made a few remarks in its favor, while it would be admitted by all that it was one of the most grave and important subjects that had been presented to this convention for its deliberation, or that could be presented to any body of men, anywhere, for their consideration.

This, sir, (said Mr. Judd) is no less than a proposition to overturn all the legislation of the whole world, from the earliest ages down to the present time, in relation to one of the most important and prominent subjects ever committed to human regulation. It proposes to abolish by constitutional enactment

the punishment of death in any case. Sir, is this a proposition to be adopted in an hour and without debate? Certainly, if any subject demands serious deliberation, it is this. One of the highest attributes of government is to provide adequate punishment for the commission of crimes. The crime of murder has been, at all times, in all countries, among every kindred and tongue, and in every condition in which man has been found to exist, considered as of the greatest magnitude and as occupying the first rank in the catalogue of crime. Hence all governments, both civilized and savage, have made it one of their first objects to provide for its punishment; and true it is, sir, that they have all, with singular unanimity, and as it is believed without an exception, declared it worthy of death, and have provided for its infliction. Why is this so? Because it is perfectly in consonance with the first impulse of the human heart. Let any man examine himself calmly and dispassionately upon this question, and the first and only conclusion to which he can come will be that the murderer is worthy of death —thus justifying that divine law which declares that "Who so sheddeth man's blood, by man shall his blood be shed." This is a true proposition and is a safe index to all civilized governments, by which their action should be regulated.

It was intimated (if not positively stated) by the gentleman from Fond du Lac (Mr. W. Chase) that "we had no right to take life by way of punishment, because we are taking that which we could not give." Is this true, Mr. President? And will it bear examination as a correct principle? Why is this asserted? Because it was at the same time declared "That as God gave life, so He alone had a right to take it." If this be a legitimate conclusion, sir, where do those who hold this faith obtain their right to imprison for life? Or even to imprison at all, thus depriving an individual of his natural liberty? For surely God gave liberty at the same time that He gave life! As the natural gift of God the one is coequal with the other; and depriving an individual of liberty is just as much a violation of the principle as taking life—the two acts differing only in degree, being precisely alike so far as the principle is concerned. If you cannot abridge life for the com-

mission of crime, then certainly you cannot abridge personal liberty or natural freedom! The one is as much a violation of the position assumed as the other.

Now, sir, this whole position is false and untenable; it cannot be maintained in any true sense consistent with the theory or practice of government. The true and only reason why any government can inflict death or any other punishment is because the individual has by his own act violated some known provision of law entered into for the common good and common safety and has therefore forfeited his life, or liberty, as the case may be. This is the true and only reason, and hence the uniform practice. You declare by your laws and publish them to the world "that whoever commits the act of murder shall suffer death"; and by another act you declare "that whoever commits felony to a certain degree shall be imprisoned in the state prison for a term of five years." And now suppose two prisoners are found guilty of these offenses, the one for murder and the other for felony. Has the one any more right or just reason to complain of the law upon the principle of the right in the government to enact it than the other? Most certainly not; there can nothing be stated more clearly correct—for if the government have a just right in one case, it most certainly has in the other.

And now, sir, what is the great object of punishment? According to his understanding, it was twofold: One object was, as far as practicable, to reform the guilty; the other, and by far the greater, was to operate as an example to all the community, and to warn all others from the perpetration of a like offense. It has been said "that the whole object of punishment was to reform the guilty." He denied the correctness of the assertion and would not admit that such was even the principal object. The principal object was in his judgment the protection and safety of the whole community. If therefore this protection and safety required the infliction of death as a penalty for murder, was it not right that it should be inflicted? Who can say, that when any individual has so far forgot his duty to the community in which he lives and becomes so regardless of the laws of both God and man as to raise his

hand against his fellow man and murder him, that he is not worthy of death, and has thus by his own act rendered himself unfit to live? It is admitted that murder is the greatest offense which man can commit against his fellow—before this offense all others dwindle into insignificance and become of little account. There is, therefore, a peculiar fitness that it should stand equally prominent in the catalogue for punishment. And if the great object of that punishment be as he had already stated to operate as a warning to others, what, he would ask, was calculated to make so deep and lasting an impression as death? This, sir, was the last act of man, and however it might be regarded in theory, it was in practice awful and terrific; and none could contemplate it without "fear and trembling." It was justly declared "to be the king of terrors!" From its very nature, therefore, it was calculated to have greater influence than any other mode of punishment yet devised, and indeed than every other combined.

Mr. Judd said he proposed to say a few words in relation to the effect of imprisonment for life as a punishment for murder, especially as to its effects upon the prisoner. Let this be the known law of the state, every vicious and wicked or malicious-minded person is apprised of the utmost penalty for committing this crime. He would ask members of this convention carefully to consider, that they might deliberately answer the question—if they believed such a penalty would operate with as much force upon the mind of those as if the penalty was death? It did seem to him that there could be but one answer to this question. There is another view of this subject: Every man knows more or less of the secret and internal action of the human mind, and how apt and prone it is to entertain hope, that sweet solace, even under the most discouraging circumstances; and can anyone for a moment doubt the continued operation of this principle in the mind of the guilty, condemned, and imprisoned individual? Who has ever heard of one under such circumstances that did not entertain the hope of escape? And how often have such escapes been effected, even under the most improbable circumstances? He need not call the attention of gentlemen to the numerous cases

which have occurred within the last few years and were continually occurring in the state prisons in New York, where, perhaps, the state prisons and the system of discipline had arrived at as great a state of perfection as anywhere in the world. Such occurrences were frequent in those prisons, and such, he believed, would continue to be the case in all time to come.

While upon this branch of the subject, Mr. Judd said that he could not more forcibly illustrate his views than by relating an anecdote which happened several years since in the state of New York when he held the office of justice of the peace: A young man was brought before him charged with "assault and battery." Upon the trial before a special sessions court he was convicted and sentenced to pay the costs of the prosecution and to be confined thirty days in the county jail and be fed on bread and water only. He staid in jail the thirty days and was discharged. Two days thereafter he committed in the same neighborhood, upon another person, an assault and battery much more aggravated than the first, and when arrested and brought into court to answer the charge, he was inquired of how it happened, that so soon after having been liberated from jail on the former conviction, he had committed a similar offense for which he was then about to be put upon trial. His answer was that he had as leave be in jail as anywhere; he did not care anything for that, and if he could only have the privilege of flogging such a fellow as Sam (meaning the complainant) he would willingly go to jail every thirty days during his life. Thus it is seen that in this case the fear of confinement did not prevent the party from committing the crime. And such he had reason to fear would be the case with those who might be tempted to commit murder.

Such facts had a thousand times more influence with him than all the theory in the world. You may pile up theory "line upon line and precept upon precept" until it becomes mountain high—still a little plain practical common sense had more weight with him than all of it from top to bottom. Besides the continued operation of hope for escape in the mind of the prisoner such as he had described would—nay, could anyone doubt but that a prisoner confined for life would at any time

and at all times seize every or any opportunity which he thought afforded any prospect of escape? Most certainly not. To doubt this would be to deny all the ordinary impulses which are known to govern and control the human heart. Well, sir, suppose for the sake of the argument that you adopt this proposed article in the constitution of this state, and suppose a man has been convicted for murder and sentenced to the state prison for life, and you have got him into said prison under such sentence, and suppose he sees, as he thinks, an opportunity by which he can escape by killing his keeper, guard, or any other person who may stand in his way; do you think, sir, he would hesitate for one moment? Who can doubt in this case? And the case is certainly a supposable one, for such occurrences have frequently happened, where the prisoner was not confined for life; and now, suppose such prisoner has made such attempt and actually killed his keeper. How are you to punish him for this last offense? You cannot punish him at all. Do the advocates of this proposition wish to go this length? Is this to be the inevitable operation of the proposed article? He thought it would; and therefore he could not consent to it.

There was another objection, though of minor importance; still it ought not to be overlooked in the argument. He alluded to the fact that there was not at the present time any state prison within the territory, nor was it in his power to anticipate the time when one would be erected and completed. The inevitable consequence of the adoption of this article, for the present, at least, will be that persons convicted of murder will have to be confined in some of the county jails, and so far as he was informed and believed, there was not one jail in any county in the territory at this time which an ingenious and artful prisoner would not walk through in twenty-four hours.

The gentleman from Fond du Lac (Mr. W. Chase) said in his remarks upon this subject in committee of the whole that he rejoiced the time had come when the philanthropist could rejoice that this relic of barbarous ages was about to be swept from the penal code of this new state, etc.

Is this true, sir? Does the real philanthropist wish this article adopted in the constitution? What is philanthropy?

Mr. Judd said he understood it to be a universal love for all mankind, towards one as much as towards another; but certainly that love was more natural, when extended to the unfortunate and innocent, than when exerted for the guilty and depraved. How is this, sir—when an innocent and worthy member of the community is murdered in cold blood by a wicked and malicious person—are all our sympathies to be extended towards the guilty wretch who has committed the murder? Are we so soon to forget the worth of the murdered? Has he no family, no children or connection, who are entitled to our commiseration? Is the true philanthropist at once to jump over all these considerations, and only to think of the murderer and of his fate? Sir, this is mock philanthropy—it is a morbid sympathy, diseased and sickly in its inception, and degrading in its effects.

Mr. President, if this article be adopted, it will in effect, sir, totally overset and overturn upon this important subject the settled policy of the government of the United States, and the constitutional doctrine of every state in the Union, and he felt confident, he might add, that of every government in the civilized world. Is the convention prepared for so great an innovation upon the practice of all Christendom? Are we wiser than they? Are the delegates, here assembled, prepared to say by this act that upon this great and universal subject of legislation and governmental policy they are more worthy to pronounce judgment correctly, than all others? For one, he doubted the policy and could not consent to it. He was free to confess that he feared its consequences; he dreaded its effects and felt alarmed lest it should work a defeat of the constitution before the people.

He was alarmed for another reason—he felt an abiding confidence that it would render life insecure. He feared innocent blood would be shed in profusion, while now its occurrence was rare. He was certain that he was not mistaken when he said the three great objects of government were "to secure life, liberty, and the pursuit of happiness"; among these he regarded "life" as first, "liberty," second, and the "pursuit of happi-

ness," last. He desired life to be made as sacred and secure as possible. Fearing the effects of this article he had felt bound to oppose it. He called upon members to consider this question well—reflect materially upon its consequences—and to be careful lest they should expose themselves to the charge of having contributed to the commission of the awful crime of murder. Let every gentleman examine his conscience and act according to its dictates.—*Democrat,* Nov. 14, 1846.

W. R. Smith was one of those who had voted for the article, and in doing so he believed that he had been acting on the principles of right and in accordance with expediency; and he still was of the same opinion: I have been brought up in a state where but one crime was punished by death and that crime was not left to the common-law construction but was most especially and guardedly defined by statute so that in the absence of proof of a single ingredient in the definition the criminal would not be punished with death. I was taught that the penalty of death for all other offenses was unnecessary, and I did not with fifty years' experience see cause to doubt the truth of that instruction.

Having grown up with these impressions it could scarcely be wondered at, that he should have voted for the proposition to abolish capital punishment. Still he was willing to submit to gentlemen whether the vote they had taken had not been a sufficient indication of the opinion of the convention to induce the legislature to enact the proper laws on the subject; and whether it would not be better to leave this whole matter to their action. He believed no state in the Union had gone so far as to incorporate such a provision in their constitution, but they had all left it to the legislature to enact such laws as from time to time should be found proper. Gentlemen could not certainly say that this principle would be acceptable to all the people, and if not, it may endanger the adoption of the constitution by them, and this consideration should have some weight with the members. There has been a decided majority of the convention who have given their votes for the principle of the article, and that vote would in his opinion leave its effect on

the action of the legislature. He concluded by hoping that some member would make a motion to postpone this matter to some future day, when there would be a fuller house than there was at present in attendance, so that if it were to be adopted it would be done by a vote of all the members elected to the convention.

Moses M. Strong said he was pleased with the remarks of his colleague, General Smith, that the adoption of this principle might endanger the adoption of the constitution by the people; he believed there was no member who could answer for all his constituents on this question; if not, it might lumber up the constitution and might make some men vote against it. Abolish capital punishment for murder, and what, he would ask, will prevent the criminal sent to the state prison from killing his keepers and all who shall oppose his escape? No state had gone to this extent in their criminal code.

Another consideration which should have some weight with members was the fact of the present thinness of the convention, when about forty members can carry a measure which is to effect a great and untried change in the criminal law. This change is to be effected in a body where the salutary checks of two houses and the veto of the governor are unfelt—by a body elected, not with reference to, but without any expectation that they would pass such an article.

J. Allen Barber said it had been his fortune as a prosecuting officer to be engaged in the prosecution of offenders and frequently to aid in the administration of the law against those guilty of the highest crime—the crime of murder—or to act in their defense. He said his position and connection in these prosecutions had made him intimately acquainted with the opinions and sentiments of the people in regard to the expediency and propriety of capital punishment. And that every year's experience, all his acquaintance with the action of courts and juries, and the increasing and prevailing sentiment in the public mind against capital punishment had only strengthened his conviction that capital punishment ought to be abolished. But, said he, it is said by the gentleman from Dodge (Dr. Judd) that the sentiment pervading the public mind, this feeling of

sympathy for the murderer, is a false philanthropy. He (Barber) cared not by what name it be called; whether false or true philanthropy, or a morbid sensibility, it had become the almost universal opinion of the people of Wisconsin, and if the naked proposition could be submitted to a vote of the people, at least three-fourths of all the voters would say forever abolish the punishment of death, and substitute instead thereof confinement in the state prison for life.

The gentleman from Dodge had also asserted that the sole object of punishment was to protect the public from a repetition of the crime. He did not so understand the law or its object. One object, he had always been taught, extending from the correction of the child by the parent to the incarceration of the most hardened offender, was the reformation of the wrongdoer.

But in capital cases this great object of punishment had been entirely lost sight of, and the lex talionis and the protection of the community had been the only grounds of justifying such horrible punishment.

He said the spirit of revenge had entered largely into the reasons for capital punishment. That in England, but a short time since, the culprit was directed to be hung in chains, there to rot and waste away, a horrid spectacle to humanity; and the reason assigned why he was denied sepulture, said the books, was that he might afford a comfortable sight to the friends of the deceased. But, said he, the gentleman from Dodge asserts that blood for blood is a divine command, and human legislators violate the divine authority when they attempt to substitute other punishment for murder. He would ask if the same book did not also show that the first murderer was sent away into exile instead of being sacrificed for his crimes. He remarked that the gentleman from Dodge had also claimed that the history of all nations, savage, barbarous, and civilized, showed the uniform punishment of death for murder.

But he (Barber) could also show from the same authority that death had also been the penalty for many other offenses among savage, barbarous, and civilized nations, and the argu-

ment was equally effective to justify capital punishment for other crimes as well as murder.

But admitting that in the Old Testament death was the punishment prescribed for murder (of which many able writers doubt) was that command to all mankind and to all time to come? He had in vain examined to find any sanction of capital punishment under the gospel dispensation.

"Every punishment which does not arise from absolute necessity is tyranical," says Montesquieu. Is there any absolute necessity to take the life of the murderer in order to [maintain] the protection of society? He contended there was no necessity, but that ample protection could be found in the confinement of the offender.

Even under the bloody codes of Rome and Greece and Judea there were cities and places of refuge to the culprit, whither if he fled and imposed a voluntary exile he escaped the punishment of death denounced against his crimes.

But the gentleman from Iowa (Smith) had opposed the abolishing the death penalty as a novelty, and that no state in the Union had abolished it. He (Barber) remarked that if capital punishment be wrong, it was expedient to blot it from the criminal code, whether any state or nation had ever done so. But that the gentleman from Iowa was entirely mistaken as to its novelty, for the fact was that Maine, Michigan, and Mississippi had abolished it, and Vermont had virtually done the same.

What reason then to fear the experiment? It is admitted that a large majority of the people of Wisconsin are in favor of it. No advantage in policy can be lasting unless founded in the sentiments and hearts of the people. All have doubts of the expediency and right and a large majority believe the punishment wrong.

Shall we hesitate to express the will of the majority? The time was when human life and human liberty could be weighed by dollars, and atonement for any crime be made with money. But man's equality, his equal rights to life and liberty have made life come to such a value that no jury, except in a moment of excitement, under the thrilling appeals of counsel or upon

the very eve of the murder, while yet the lifeblood was oozing out, will consent to the voluntary sacrifice of their fellow men.

"The death of the citizen for crime can not be necessary but in one case, when, though deprived of liberty, he had such power and connections as may endanger the nation." Can then capital punishment be justified in a nation strong in the affections and loyalty of its people?

But the law is not only wrong in principle but is contrary to public sentiment.

Human law ought to have regard to public sentiment. Laws cannot change it. The public will should make the law, and laws contrary to the public will are a dead letter upon our statute, and powerless.

So adverse to the sentiments of a majority is the death penalty that it is impossible to convict when the accused has wealth or numerous friends to procure the aid of ingenious counsel to postpone the trial till public excitement hath subsided and take advantage of the quirks of the law.

The poor and friendless are alone the victims. Shall we then continue a system of punishment that shocks and outrages humanity—that spares the rich and sacrifices the poor?

Courts have established such trivial causes as disqualifications of jurors that the murderer may escape with impunity, if he will but add unusual horrors and enormities to his crime so as to electrify the whole country and make the community think and talk of his crime.

A murderer thus escaped at Crawford County, because his crime was of that character that every man in the county had formed or expressed opinions in regard to his guilt. And after summoning every man in the county in the vain attempt to make an unprejudiced jury, at three successive terms, he was discharged.

Grand jurors refuse to find indictments for murder, because they believe the punishment prescribed to be wrong.

In his own county (Grant) at the last March term of the district court the grand jury refused to bring a bill for murder in two several instances, in consequence of conscientious scruples about the mode of punishment.

Under present circumstances scarce one in ten suffer the penalty of the law. Lynch law is the natural consequence of the uncertainty of conviction. Certainty of punishment rather than its severity deters from crime. Abandon then this uncertain system. If imprisonment for life be substituted, the conviction of the murderer will be as certain as the conviction of the burglar or counterfeiter. Let us forever abolish the death penalty and no longer brutalize the community by the public sacrifice of human life. Adopt a mode of punishment for the highest crimes that will afford ample security to the community, be consistent with the public will, certain of enforcement. No place so fit as in the fundamental law to provide the proper punishment for murder, and no provision in the constitution would meet such general acceptance as the substitution of imprisonment for life in lieu of the death penalty, or speak so loudly for the humanity of our people and the security of life within our borders.

J. Y. Smith next obtained the floor and addressed the convention as follows:

Mr. President: I had hoped that this article would have been disposed of without debate and the subject matter of it left to future legislation. But the strong vote by which it was last evening ordered to a third reading forced me to the conclusion that it was the serious intention of this body to make it a part of the fundamental law of the state; and, precious as is the time of this convention, I should feel that I had failed to discharge an imperative duty, should I neglect to lift my voice against this measure.

I cheerfully concede that the opposers of capital punishment are, for the most part, actuated by the purest motives and the kindest feelings. But at the same time I believe them to be carried away by a false sympathy and a morbid species of philanthropy—a sympathy which is deaf to the claims of justice—a philanthropy which sacrifices the peace and safety of the innocent to the indulgence of the guilty.

There are two classes of arguments to which the advocates of the abolition of the death penalty usually resort, and they have both been resorted to here—the first is drawn from con-

siderations of expediency, the second, from divine authority. The gentleman from Dodge, Mr. Judd, has ably reviewed many of the first named class of arguments, and I shall therefore touch lightly upon them and pass on to the second class.

It is contended by the gentleman from Grant, Mr. J. A. Barber, that the death penalty should be abolished because public sentiment demands it—that public sentiment has become so sensitive in regard to this penalty that nineteen times out of twenty it is impossible to enforce it. Sir, I deny it. It is not so. I have known of near a dozen convictions and executions in this territory within the last eighteen years, and I do not believe there have been twenty times that number of murders in the territory within the same period. On the contrary I believe the cases are extremely rare, both here and in most of the states, in which the wilful and deliberate murderer has escaped the penalty of the law.

But suppose public sentiment is opposed to this penalty. It may indeed abolish it, but it is no certain indication that the penalty is not a proper and necessary one. Public sentiment may be for a time diseased upon a particular subject, and I have no doubt but the public sentiment of the United States is diseased, and is becoming alarmingly diseased upon this very subject. The public sentiment of France at one time became opposed, first, to one safeguard to human rights, and it was swept away. It then became opposed to another and another of those safeguards, and one after another was swept away, until the public sentiment of France finally repudiated all religion, all law, all government, and, as the immediate consequence, France was deluged in blood, and Terror reigned triumphant, until men became amazed at their own folly and madness, and then public sentiment returned humbly and submissively to reason, law, and order.

The committee which reported this article in their accompanying argument say that the death penalty "falls with its blighting, crushing power upon the innocent as well as the guilty." Does the committee mean to say that the penalty of death is inflicted, not only upon the murderer, but upon all his relatives? Or do they mean merely to say that the friends of

the criminal share in his shame and dishonor? If the latter be their meaning, as I presume it is, I would ask whether it is the penalty or the crime which brings with it the dishonor? If it is the crime which "falls with its blighting, crushing power upon the innocent as well as the guilty," it forms no objection to the penalty. If it is the penalty which the innocent share with the guilty, any other penalty must be liable to the same objection, for it must be shared between the innocent and the guilty in the same proportion. If, therefore, this argument be conclusive against the death penalty, it is equally so against any other penalty, and the murderer must not be punished at all.

Again the committee say: "It is urged that the murderer has forfeited his life by taking that of his fellow being; but in answer it can be asked, 'Is life restored to the murdered by taking the life of the murderer?'" Sir, I would ask whether the same objection may not be urged with equal force against the substitute proposed by the committee—close confinement for life. Imprison the murderer for life—imprison him for ten thousand lives, if he had so many to live—and would that restore life to the dead? The committee argue that the life of the murderer should not be taken because that will not restore life to his victim; but they admit that he has forfeited his liberty and that that should be taken away. The conclusion is inevitable—that if the committee have any confidence in the objection to the death penalty, that it will not restore the life of the murdered, they must suppose that imprisonment will.

It is contended that the death penalty should be abolished because it is too severe—because it is such a fearful, solemn act to take the life of a human being. I grant it; and what does it prove? If there is such a solemn and awful responsibility attached to taking life under the sanctions of law and the careful adjudications of a court and jury, and to satisfy the claims of public justice upon a wretch who has reached the maximum of human guilt, what enormous guilt must attach to the wilful murder of an innocent and worthy member of society! Magnify, then, to any extent, the sacredness of human life and the awful nature of the death penalty, and you only magnify, in a

geometrical ratio, the enormity of the guilt of the murderer; and the demand for his life, as the only adequate penalty, is echoed from every point of reason and conscience.

But while this class of reasoners, in the language of this committee, denounce the death penalty as "one of the last relics of the barbarous ages" and advocate its abolition on the ground of its awful severity, with an inconsistency quite consistent with their other arguments they propose a substitute which they claim to be still more terrible than the penalty they propose to abolish. The committee say that, "The terrors of a close and solitary confinement without the hope of pardon, reprieve, or escape will be the most effectual to restrain vice." They would soften the features of the criminal code and adapt it to "this enlightened age" by abolishing a terrible penalty and instituting in its place a still more terrible one!

But, Mr. President, it is not true that perpetual imprisonment is armed with even half the terrors of the death penalty. Criminals condemned to death are placed in circumstances of all others the best calculated to test the real sentiments of the soul as to which penalty is the most appalling to human nature, and their united voice is, "Give us anything but death." They will plead and entreat for their lives and accept with gratitude any commutation of the sentence of death. Sir, when criminals condemned to the state prison for life begin to plead for a commutation of their sentence to that of death, then, and not till then, will I believe that imprisonment will impose as powerful a restraint upon the malign passions of man as does the death penalty. There is a wide gulf of difference between the crime of murder and crimes of the next highest grade, and should there not be a corresponding gulf of difference between the penalties for their commission? Should not the most threatening barrier within the range of human power be imposed to arrest the wretch, as he is about to take this last, desperate leap in the downward course of crime?

Another consideration urged with a great show of plausibility is that persons may and frequently do suffer this fearful penalty when they are entirely innocent of the crime. How this assumption can be reconciled with the assertion that nine-

teen times out of twenty not even the guilty can be convicted is more than I am bound to show. In almost every case of execution a full confession of the murder is made, and consequently the execution of innocent persons must be extremely rare. Still, cases of this kind may and doubtless do sometimes occur; but this is no more conclusive against the death penalty than against any other penalty. We are all liable to become the victims of unfounded suspicions, unfortunate circumstances, and unmerited penalties, and that, too, without respect to the nature either of the crime or the penalty.

But these are accidents of the law, which are common to all crimes and all penalties, and accidents equally fatal sometimes occur in all the ordinary and necessary transactions of life. If, therefore, this argument be good against capital punishment, it is equally valid against any manner of punishment, or any occupation or transaction which may in any manner endanger human life, however necessary it may be in itself. Are we prepared to abolish all criminal jurisprudence, because, owing to the fallibility of human tribunals the innocent may sometimes suffer?

Let us now turn to the arguments drawn from divine authority. And here I must beg of the gentlemen on the other side not to dodge the argument when it is turned against them, nor deny the authority to which they have appealed, but to stand up to the work like men and take the authority in its length and breadth and abide by its high decisions.

The committee, in appealing to this authority, hold forth the following language: "It is a rule of the divine law that it is better that ninety and nine guilty persons should escape rather than one innocent one should perish."

I have no doubt, Mr. President, that these gentlemen are very learned in the divine law, and I would like to have them tell me where they found that part of it. I never saw it before. I never before heard of it. Can any one of them, or all of them together, tell me where it is written? I am inclined, sir, to believe that they might have written it in the dust upon the lids of their Bibles, but if it is anywhere within those lids, I pray them to give me the chapter and verse, or at least the book—

whether it is Genesis, Deuteronomy, or the Gospel according to St. Acts.

But what is the divine authority upon this question? As a clue to the solution of this question, I will refer back to the first law given to man: "And the Lord God commanded the man, saying, Of every tree of the garden thou mayest freely eat: but of the tree of the knowledge of good and evil thou shalt not eat of it; for in the day that thou eatest thereof thou shalt surely die."

There, sir, is a death penalty enacted by the Divine Being himself. The law to which it is attached—we have all violated and incurred its penalty. Yes, sir, you and I, every one of us, every son and daughter of Adam are under sentence of death for our crimes, and from the execution of that sentence not one of us can by any possibility escape. Talk, then, of abolishing the death penalty! We might as well talk of demolishing the throne of Omnipotence and abolishing His government. The particular mode in which He executes this sentence is not material — whether it be by His ordinary or extraordinary providence, or by a still more direct and immediate exercise of His power.

We have no certain evidence that the execution of this sentence was ever delegated to man until after the flood. Cain was the first murderer of whom we have any account, and he was reprieved by divine prerogative. Still it is evident that the sentence of death, as the just penalty for his crime, was written on his conscience and demanded by the natural sense of justice which the Creator had implanted in the human soul. "Every one that findeth me shall slay me," was his sad lament. This same consciousness of the penalty due to the crime of murder we find in all countries and in all ages of the world, written as with the finger of God upon the heart of man, and it can never be erased.

As men began to multiply, the earth became "filled with violence," and the Almighty undertook the execution of the whole race, with the exception of one family. The whole earth was made the theatre of execution, and by a terrible convulsion of nature a whole race of criminals was swept off together.

There, sir, was a death penalty. If, therefore, there is any such thing as divine authority, the institution of the death penalty, by that authority, and its execution by divine interposition, is, I think, sufficiently proven.

The gentleman from Fond du Lac (Mr. Chase) seems to admit that the Creator has a right to take away the lives of his creatures; but he argues that as God is the author of life none but He can have a right to take it away.

The question then arises—Has the Creator ever delegated the execution of this penalty for the commission of particular crimes to a created being? If there is any truth in the sacred history He has done so in numerous instances. The destruction of Senacherib's army furnishes one instance. The Assyrian king had encamped against Jerusalem in the prosecution of an unrighteous and murderous war, when, in the language of Byron,

> The angel of death spread his wings on the blast,
> And breathed in the face of the foe as he passed.

"And it came to pass that night, that the angel of the Lord went out and smote in the camp of the Assyrians a hundred, four score and five thousand." There, sir, was a death penalty, inflicted by a secondary agent under divine commission.

Under the Jewish civil law the execution of this penalty was expressly delegated to man by the Supreme Lawgiver.

"He that smiteth a man so that he die shall surely be put to death.

"And if a man lie not in wait, but God deliver him into his hand, then I will appoint a place whither he shall flee.

"But if a man come presumptuously upon his neighbor to slay him with guile, thou shalt take him from mine altar that he may die."

Again: ' 'But if a man hate his neighbor, and lie in wait for him and rise up against him and smite him mortally that he die and fleeth into one of these cities (cities of refuge) then the elders of his city shall send and fetch him thence and deliver him into the hands of the avenger of blood that he may die."

There, sir, is a death penalty, reiterated by divine authority again and again as a part of the criminal code of at least one nation. And the same Divine Being, foreseeing just such an "enlightened age" as this, expressly prohibited the very sympathy which now demands the abolition of this penalty: "Thine eye shall not pity him, but thou shalt put away innocent blood from Israel, that it may go well with thee."

"And those that remain shall hear and fear, and shall henceforth commit no more any such evil among you."

The gentleman from Fond du Lac (Mr. Chase) scouts the idea that men should be influenced in their conduct by the principle of fear. For what purpose, sir, was the principle of fear implanted in the human soul, and who is best qualified to judge as to what principle of our nature may be most successfully appealed to for the restraint of vice—man or his Maker?

It is true, Mr. President, that because this penalty was enjoined upon the Jewish nation by divine authority, it does not necessarily follow that it is obligatory upon all nations. All I claim from the evidence drawn from the Jewish code is that in the case of one government, at least, the death penalty was expressly enjoined by divine authority.

The great question is, Has the authority to inflict the death penalty for the crime of murder been delegated to the world of mankind, and is its execution required by the Supreme Ruler? The law given to Noah immediately after the flood must, I think, be conclusive on this point: "Whoso sheddeth man's blood, by man shall his blood be shed; for in the image of God made He man."

Noah and his family then constituted the whole family of man on earth, and consequently the law must have been designed to extend in its application to the whole family of man, until either repealed by the authority from whence it proceeded, or the reasons for its enactment should have ceased to exist. The reason for the law is given—"for in the image of God made He man."

So long, therefore, as it is true that man was created in the image of God, so long will the claims of that law be binding upon all nations.

This law has been characterized upon this floor as a relic of barbarism—a vestige of the dark ages—a murderous law! Sir, I must confess that I am one of those fanatical, bigoted, weakminded, cowardly men, that I dare not so characterize a law which has proceeded from the throne of Infinite Purity and Justice, as to implicate my Maker as a murderer. I dare not do it.

It is said that this law is repealed by the precepts of the gospel. "But I say unto you that ye resist not evil; if a man smite you on one cheek, turn to him the other also."

But are these and similar precepts of the New Testament addressed to civil governments, or only to individuals in their individual capacities? If the latter, it is quite consistent with the general scope of revelation. If the former, it is not only inconsistent with other portions of the sacred volume, but it is utterly inconsistent with the substitute reported by the committee. It not only prohibits the death penalty, but every other penalty. "I say unto you that ye resist not evil." You must not restrain crime by any forcible means whatever!

That such are not the precepts of the gospel is certain from other parts of the record.

"Let every soul be subject to the higher powers, for there is no power but of God. Whosoever therefore resisteth the power, resisteth the ordinance of God. For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? Do that which is good and thou shalt have praise of the same, for he is the minister of God to thee for good. But if thou doest evil, be afraid, for he beareth not the sword in vain"—here the principle of fear and terror is constantly kept in view—"for he is the minister of God, to execute wrath upon him that doeth evil." Here the divine authority of human government is fully asserted and obedience to it expressly enjoined. A sword is placed in the hand of the ruler, and the testimony is that he beareth it not in vain. But does he not bear it in vain, if he can in no case use it? So far, then, is the New Testament from abrogating human government or even abolishing the death penalty, that it fully recognizes the divine authority of that government and rep-

resents the civil magistrate as the minister of God with an impending sword in his hand and the terrors of Omnipotence pledged to back him up.

(Mr. Smith concluded by offering a few reasons why the friends of this measure should leave it to the action of the legislature.)—*Argus,* Nov. 17, 1846.

No. 21, "Article prescribing the political year of the state," was taken up and read the third time, and the rule requiring the ayes and noes to be called on the passage of articles having been first suspended, the said article was passed, and the title thereof agreed to.

The convention then resolved itself into committee of the whole for the consideration of articles Nos. 23, 10, and 24, Moses M. Strong in the chair. And after some time spent therein, the committee rose and by their chairman reported article No. 23 back to the convention without amendment, and reported progress on Nos. 10 and 24, and asked leave to sit again thereon. Leave was granted.

Organization of the Legislature

The article on this subject was taken up in committee of the whole, Moses M. Strong in the chair.

Mr. Judd moved to strike out 45, the number of members of the house of representatives, and insert 65. (The object of this motion was to give to each county a representative without regard to population. Considerable discussion arose on this question in which Messrs. Judd, H. Barber, Baird, and Beall advocated the motion, and A. H. Smith and Tweedy opposed it. Mr. Tweedy moved to insert 60 as the number, which was adopted.—*Express,* Nov. 17, 1846.

J. Allen Barber then rose and made the following announcement:

"Died, at his residence, at the Hermitage, November 5, 1846, Thomas P. Burnett, aged forty-six years and two months. Also, same day, Lucia M. Burnett, his wife, aged twenty-nine years and seven months. Also, at the same place, on the first instant, Mrs. Judith Burnett, mother of Mr. Burnett, aged seventy-three years."

And also offered the following resolutions:

"*Resolved,* That this convention has heard the announcement of the appalling intelligence of the death, by a malignant fever, during the same day, of the Hon. Thomas P. Burnett, one of its members from the county of Grant, his wife, and mother with feelings of the most poignant grief and heart-rending sorrow.

"*Resolved,* That in the death of the Hon. Thomas P. Burnett this convention has lost one of its most talented, intelligent, and useful

members; the community, one of its most valuable citizens and brightest ornaments; his immediate circle of acquaintance, an ardent friend, and his family kindred have sustained a loss for which the expression of our deepest and warmest sympathies can afford but a slight consolation.

"*Resolved,* That as a testimony of our respect for the deceased the members of this convention will wear crape on the left arm for thirty days.

"*Resolved,* As a further testimony of respect for the deceased that this convention will adjourn over the morrow.

"*Resolved,* That a copy of these resolutions be signed by the president and secretary and transmitted to the relatives of the deceased."

And the question having been put on the adoption of said resolutions, they were unanimously adopted.

So the convention adjourned until Thursday morning, at nine o'clock, A. M.

The committee rose, and the convention being about to adjourn, J. Allen Barber arose, greatly excited, and announced the death of his colleague, Hon. Thomas P. Burnett; but being unable to speak, he moved that the convention adjourn to Thursday morning, which prevailed.

On Wednesday morning the members met informally in their hall, the president calling Gen. W. R. Smith to the chair.

J. A. Barber then addressed the convention as follows:

Mr. President—It becomes my melancholy duty to announce to this convention the death of my colleague, the Hon. Thomas Pendleton Burnett.

He died, after a short illness, at his residence, in Grant County, on the fifth instant. A few days since he was in our midst actively engaged in the formation of the fundamental law of the land—a duty for which his comprehensive mind, great legal attainments, and long and thorough acquaintance with the whole territory eminently qualified him. Two weeks since, he was hastily called from his duties here to attend the sick bed of his gentle, amiable, and accomplished wife and of his aged mother. And now the husband, the wife, the mother, lie in the same cold grave together. He preceded the partner of his bosom, the mother of his now two orphan children, to the spirit land. But by the inscrutable dispensation of Providence—the ardent wish of her heart in the aching void—she, too, was released from her sufferings a few hours later, and

we have reason to hope they are reunited in an eternal union where there is no sorrow or separation. We have lost the light of his wisdom and counsel to guide us in our deliberations. But however deeply we may deplore his loss, we have the consolation to know he died in the full triumph of the Christian's faith.

Thomas P. Burnett was born in the county of Pittsylvania, in the state of Virginia, and at an early period in life removed with his father's family to the state of Kentucky. He chose as his profession the practice of the law, which he studied at Paris, in Kentucky, where he was admitted to practice and spent the early part of his professional career. Seventeen years since, official duty called him to reside in this territory, then a part of the territory of Michigan, and here he has resided since that time. As a professional lawyer and able advocate, he soon attained and has deservedly stood at the head of his profession. As a citizen all who knew him knew him as their friend; and those who knew him most intimately were the greatest admirers of his many virtues. His conciliatory disposition, affability, and urbanity of manners, his great possessions of useful, practical knowledge in the varied walks of life, his benevolence and high sense of honor, wherever he went, won for him the esteem and hearty devotion of all his acquaintances. Among his immediate constituents, party prejudice was forgotten, and without regard to political opinion he was ever esteemed by all a worthy depository of the highest public trusts. Though our hearts may no more be gladdened by his presence among us, the memory of his great worth and many virtues will long live in the hearts of the people of Wisconsin. His virtues shone not the less brightly as a kind husband and father—a citizen and neighbor—than in his professional and public career. And the people of Wisconsin fondly looked to a period not far distant, when he would honor the new state as her highest representative in the highest councils of the nation. But in the prime of life and usefulness, at the age of forty-six years, just as he was about to step to a higher stage of action, death has removed him from us.

Let us learn wisdom from this dispensation of Providence and emulate his virtues; and when we come to meet the King

of Terrors, may we like him be reconciled to God, and part in peace, leaving behind us a heritage of virtue.

He closed by moving the following resolutions, which were unanimously adopted:

"*Resolved,* That this convention has heard the announcement of the appalling intelligence of the death, by a malignant fever, during the same day, of the Hon. Thomas P. Burnett, one of its members from the county of Grant, his wife, and mother with feelings of the most poignant grief and heart-rending sorrow.

"*Resolved,* That in the death of the Hon. Thomas P. Burnett this convention has lost one of its most talented, intelligent, and useful members; community, one of its most valuable citizens and brightest ornaments; his immediate circle of acquaintances, an ardent friend; and his family kindred have sustained a loss, for which the expression of our deepest and warmest sympathies can afford but a slight condolence.

"*Resolved,* That as a testimony of our respect for the deceased the members of this convention will wear crape on the left arm for thirty days.

"*Resolved,* As a further testimony of respect for the deceased, That this convention will adjourn over the morrow.

"*Resolved,* That a copy of these resolutions be signed by the president and secretary and transmitted to the relatives of the deceased."

The convention then adjourned.—*Express,* Nov. 17, 1846.

Mr. Hicks rose to second the motion [of Mr. Barber] and spoke as follows:

From the fullness of my heart I must speak of the irreparable loss of the deceased—a loss irreparable to all who were bound by the ties of affection and friendship, a loss to society, a loss to the state. It has not been my fortune to know him but a few years, but during that time our relation has been such not only as enabled me to judge of, but I can bear testimony, that in him were the many bright virtues that make men great and good. If he had a single fault, it was to himself,

and but a habit. Not only are we called upon to mourn his death, but at the same time greets us the news that all that was nearest and dearest by the ties of nature and affection has also been summoned to the grave. But a few days since, while here, he was aroused from his sleep but to receive the sad intelligence of the severe indisposition and probable danger of his wife. It seems to have been but a message to return home in time to go, with all the nearest ties which bind man to earth, down to that sleep of death which is the destiny of all.—*American Freeman,* Nov. 24, 1846.

THURSDAY, NOVEMBER 12, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read and corrected.

Petitions were presented and referred as follows:

By Wm. R. Smith, a petition of twenty-nine inhabitants of Dane and Iowa counties, asking for the exemption from forced sale [of] the homestead of citizens. By Geo. B. Smith, a petition of sixty citizens of the county of Dane on the same subject. By Mr. Clark, a petition of citizens of Sauk County on the same subject. Which were severally referred to the committee on miscellaneous provisions.

Mr. Holcombe, from the select committee to which the subject had been referred, reported No. 26, "Article relative to an equitable division of the territory."

"The select committee 'to inquire into the expediency of dividing the territory of Wisconsin, and locating such line of division as shall equitably divide the same into two states' have had the same under consideration and respectfully report:

"That in their opinion the territory of Wisconsin should be equitably divided, for the following principal reasons:

"1. The large extent and peculiar shape of the territory, and the consequent inequality in the benefits of government.

"2. The late act of Congress, dated August 6, 1846, dividing the same.

"3. The present unequal representation in the Senate of the United States.

"Your committee have found, in examining the subject, that the area included within the present undisputed limits of Wisconsin Territory may be estimated at about ninety thousand square miles, and is about as large as New York and Pennsylvania together, and the length of the same entirely disproportioned to its breadth, averaging about two hundred miles wide, and some six hundred or seven hundred miles long.

"The present population in the vicinity of the west end of Lake Superior and the settlements now forming immediately south of the same, continuing to the Mississippi River, are greatly inconvenienced on account of the distance from the seat of their present legislature, and so far as distance is concerned without a parallel in the history of any of the states in this Union; the north is, therefore, liable to great injustice by the legislature passing laws touching their interest before it could be possible for the inhabitants of that region to get any

information on the subject and have sufficient time to exercise the inestimable right of petition or remonstrance within the ordinary time of any session of the legislature. That a large proportion of the territory located between the Wisconsin and Chippewa rivers, a distance of near one hundred and fifty miles, is broken and undesirable for cultivation and settlement, which renders it probable that the facilities of a speedy winter communication between this section of country and the remote settlements of the northwest cannot be had for many years—the great barrier, etc., of distance forbids the equal distribution of the benefits and privileges of state government now to be formed and renders them almost worthless to the inhabitants of that region.

"The late act of Congress, defining the northwest boundary line, commencing at the first falls in the river St. Louis west from Lake Superior, and running due south to the St. Croix, and down the channel of the same to the Mississippi River, is highly objectionable to the inhabitants of the valley of the St. Croix River as it places the settlements under different governments, alienates the common feeling of interest in society, and gives concurrent jurisdiction to the legislatures of different states in regulating all the improvements in the river requiring chartered privileges, whose conflicting interests are so multiplied that even the legislature of one state might not control, reconcile, and restrain them, and if resort could be had to two, great advantages may be taken of each other by individuals, a wide door open to litigation, and the inhabitants on the different sides of the river arrayed and exasperated against each other.

"The late act of Congresss, however, has this favorable effect with the committee, in that it has manifested a disposition to divide the present territory of Wisconsin, which [division] without consent of parties, under the Ordinance of 1787, your committee have doubted * * * could be made; but the area intended to be included by the act is so extended to the north and west, that your committee, independent of the other objections, think the line of division improperly located and unequitable, cutting off the territory on the southwest from any commercial point or advantage at the west end of Lake Superior, to whom it naturally belongs, even if the line established by Congress should remain unaltered.

"And it also includes within the limits of the state all of the east shore of the river Mississippi to very near the head of uninterrupted steam navigation, so that the territory northwest of the St. Croix River has its permanent commercial advantages confined to a very circumscribed limit on the east bank of the Mississippi, and cut off entirely on the south shore of Lake Superior; while, on the other hand, within the limits of the state, the principal commercial points of the south shore of Lake Superior and the upper Mississippi are retained; but so remote are these sections of country from the seat of government

of the prospective state that they are beyond the reach of its equal benefits—therefore both justice and equity require that a more southerly line than that specified in the act of Congress should be adopted.

"Your committee have considered it a matter of deep importance, if, by a hasty entrance into the Union, the many millions that are in all human probability to inhabit this territory in future should be compelled to commit the representation in the Senate of the United States to two senators, which is all that one state is entitled to; and as the limits of the whole are capable of sustaining a population equal to that of two large states, your committee have been greatly influenced in favor of dividing the territory on that account. They have also had a deep sense of the unequal representation now in the Senate of the United States from the different states in the Union, as compared with the representation in the lower house of Congress, the latter being based upon an equal ratio of population in all the states, while the Senate has the same representation from every state, however large or small. For instance, the six New England states have twelve senators and thirty-one representatives, with an area in the aggregate of 65,310 miles, according to Malte-Brun; while New York and Pennsylvania, with an area of 90,150 miles, have four senators and fifty-six representatives. Although the five states located in the Northwest Territory by the Ordinance of 1787 may not now be as much out of proportion in their representation in Congress as New York and Pennsylvania are with the New England states, yet the time is rapidly approaching when they may be, as the representation from the new states in the lower house of Congress is continually increasing, while that in the Senate remains the same; therefore the importance of the new states entering the Union as nearly uniform in size as may be practicable, and for the information of those who may not be informed on the subject is herewith annexed Schedule (marked A) of most of the states in the Union, exhibiting the comparative size of each.

"Your committee, after mature deliberation, taking into view the variety of soil, surface, and resources, generally, do recommend that the line dividing the territory of Wisconsin should commence in the channel of the Mississippi River, directly south of the highest peak on Mountain Island, which, according to Nicollet's map, is about where the forty-fourth degree of latitude crosses the Mississippi; thence due north a half degree; thence on a direct line (northeasterly) to the headwaters of Montreal River, striking said headwaters at the same place, as marked upon the survey made by Captain Cram; thence down the main channel of Montreal River to the middle of Lake Superior.

"All of which is respectfully submitted.

William Holcombe, Chairman"

A

AREA OF THE SEVERAL STATES, BY MALTE-BRUN

	sq. m.		sq. m.
1. Maine	32,000	17. Mississippi	43,350
2. New Hampshire	9,280	18. Louisiana	48,000
3. Vermont	10,200	19. Tennessee	41,300
4. Massachusetts	7,800	20. Kentucky	39,000
5. Rhode Island	1,360	21. Ohio	38,500
6. Connecticut	4,670	22. Indiana	36,250
7. New York	46,200	23. Illinois	49,000
8. New Jersey	6,900	do. in dispute	10,000
9. Pennsylvania	43,950	24. Missouri	60,000
10. Delaware	2,060	25. Michigan	38,750
11. Maryland	10,800	do. in dispute	.....
12. Virginia	64,000	26. Arkansas	.....
13. North Carolina	43,300	27. Florida	.....
14. South Carolina	30,080	28. Texas	.....
15. Georgia	58,200	29. Iowa	.....
16. Alabama	50,800	30. Wisconsin	.....

Which was read, referred to the committee of the whole, and ordered printed.

Moses M. Strong moved that 1,000 extra copies of the report be printed, which was agreed to.

Wm. R. Smith, from the select committee to which had been referred the petition of Matthias J. Bovee, asking to contest the seat of Mr. Burchard, made the following report, to wit:

"The committee to whom was referred the petition of M. J. Bovee, contesting the seat of Chas. Burchard, report that no action has yet been had on the subject, except that of appointing a day for hearing the parties, which has now arrived, and that in consequence of the lamented death of the chairman of the committee, Thos. P. Burnett, the committee is not full. They therefore request that another member be added thereto."

The said report was accepted. The President then announced the appointment of the following additional member of said committee, to wit: Mr. Jenkins.

Leave of absence was asked for and granted as follows, to wit: By Joseph Kinney for Messrs. Hackett and Noggle; by Mr. Burt for Mr. Gilmore; by Mr. Fuller for himself for three days.

Mr. Giddings introduced the following resolution: "*Resolved*, That the territorial treasurer be directed to pay Thos. McHugh the sum of fifty dollars as part pay for his services as assistant secretary to this convention." And the rules having first been suspended for that purpose, the said resolution was adopted.

The resolution introduced on the tenth instant, relative to prohibiting the legislature from licensing sales of intoxicating liquors, etc., was taken up, when Mr. Fuller moved that the same be referred to the

committee on the powers and restrictions of the legislature, which was agreed to. And a division having been called for, there were 26 in the affirmative and 10 in the negative.

The resolution introduced on the tenth instant by Mr. James, relative to the absence of members of this convention, was taken up, when Mr. Ellis moved that the same be laid upon the table. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 42, negative 42; for the vote see Appendix I, roll call 103].

Mr. Randall moved to amend the said resolution by adding the words "or on leave of absence granted by this convention." Pending the question on said amendment, the morning hour having expired, the said resolution was laid over until tomorrow under the rules.

The resolution of Mr. James was taken up, when Mr. James addressed the convention in support of the resolution, as follows:

Mr. President—I offered that resolution, and I did it, sir, under a sincere conviction that such a resolution ought and should pass or be adopted by this convention. In passing the law, sir, preparatory to the framing of a state constitution for the state of Wisconsin it was considered and agreed upon that every thirteen hundred inhabitants (or probably some over that number, the exact number I don't recollect at this time) should be entitled to one delegate in this convention. The people, in conformity to these laws and regulations, have elected their delegates and sent them here, and, in order that the people might be fully represented, they have sent these delegates according to the apportionment made for that purpose. Now, sir, we have been here nearly six weeks, and I think I may safely say that at least three weeks out of the six we have not had at any one time over eighty members present, while there should be one hundred and twenty-six, thus leaving some fifty thousand or upwards of our inhabitants unrepresented in this convention. And I ask you, sir, I ask the members of this convention, if they can one of them, upon cool reflection, say that such is justice? I ask the members of this house if there is one of them who can conscientiously say that it is or would be justice for the people of this territory to be paying out the sum of some eighty or ninety dollars per day during the ses-

sion of this convention to men who are at home attending to their own domestic affairs? I call upon every member of this house, to know if there is one among them who could think that he was doing justice to his constituents by asking or receiving money for his services when those services have not been rendered. For my part, sir, I not only think it an imposition upon this convention, but upon the whole territory; and I do hope that the members will each of them take the matter into consideration and adopt some rule that will tend more to keep the members in their places.

The resolution was under discussion when the morning session had expired; so it lies over till tomorrow.—*Democrat,* Nov. 14, 1846.

No. 23, "Article restraining leasehold estates," was taken up, when Moses M. Strong moved to amend the same by inserting after the word "agricultural" the words "or mineral," which was agreed to.

Mr. Jenkins moved to strike out the word "twelve" and insert in lieu thereof the word "twenty," which was agreed to. And a division having been called for, there were 36 in the affirmative and 21 in the negative.

Moses M. Strong moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on ordering the said article to be engrossed for its third reading and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 74, negative 11; for the vote see Appendix I, roll call 104].

Mr. Strong of Racine spoke against the article [restraining leasehold estates.]

Mr. Tweedy advocated the article at length. He thought without some restrictions of this kind there might grow up from an accumulation of landed property in the hands of a few difficulties now unseen, that would be a great detriment to the prosperity of the state.

Mr. Harkin was opposed to all leases. He wanted every man to hold what he lived upon as his own.

W. R. Smith wanted to know of the delegates from Grant what amount of land one Charles Augustus Murray, who held

a distinguished place in the councils of Queen Victoria, held in that county.

Mr. Cruson: Thirty thousand acres. They were purchased of the government in 1836. They were uncultivated, but the taxes were paid by his agents.

Mr. Chase thought it hardly possible that any gentlemen should oppose this measure. And he was surprised to hear the gentleman from Racine (Mr. Strong) had no sympathy with the antirenters of New York.

Mr. Strong of Racine said there was no danger of the results which the gentleman from Milwaukee (Mr. Tweedy) deprecated. Lands that had been bought of government in Dane County, within 15 miles of the capitol, were now offered for 75 cents per acre. He spoke at length on the antirent difficulties.

The article was ordered to its engrossment—ayes 44, noes 11.—*Democrat,* Nov. 14, 1846.

Mr. Steele asked that leave of absence be granted to Mr. Hill. Leave was granted.

The convention then resolved itself into committee of the whole for the further consideration of articles Nos. 10 and 24, Moses M. Strong in the chair. And after some time spent therein, the committee rose and by their chairman reported progress thereon, and asked leave to sit again. Leave was granted.

On motion of Mr. Baird the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

The convention again resolved itself into committee of the whole for the consideration of No. 10, "Article on the constitution and organization of the legislature," and No. 24, "Article on the powers, duties, and restrictions of the legislature," Moses M. Strong in the chair. And after some time spent therein rose and by their chairman reported progress thereon, and asked leave to sit again. Leave was granted.

Moses M. Strong moved that a select committee of nine be appointed to digest and report an apportionment of representation of senators and representatives among the several counties, and that they report a tabular statement of the effect of the representation upon the different basis for a house of representatives consisting of numbers from fifty to seventy members, which was agreed to.

The President announced the appointment of the following committee under the said motion, to wit: Messrs. Moses M. Strong, Hiram Barber, Wm. R. Smith, Marshall M. Strong, Beall, Agry, Huebschmann, Baker, and Cruson.

Geo. Hyer asked that leave of absence be granted him for three days. Leave was granted.

On motion of Mr. Agry the convention adjourned.

The convention in committee of the whole again resumed the consideration of this article, the question on single districts being still under discussion. In this discussion A. H. Smith, Steele, Harkin, Brown, Drake, Tweedy, G. B. Smith, Marshall M. Strong, Judd, W. R. Smith, Clark, Baker, Whiteside, W. Chase, H. Barber, and Lovell took a part. The matter was finally disposed of with an understanding that it should be referred to a committee to report a table showing the result of different numbers for the representatives.

Mr. Goodell moved to amend the fifth section of the article by making the senators elective in classes, one-half every year, which was adopted.

Mr. Hunkins moved to amend the fourteenth section by striking out 30 and insert[ing] 40, being the number of days which members of the legislature were to receive $2 per day, which was adopted.

Mr. Ellis moved to strike out $2 and insert $3. Lost.

A. Kinne moved to strike out $2 and insert $2.50. Lost.

The whole day was spent in the consideration of this article and considerable discussion, but of a character which could scarcely be given *in extenso*.

At 5 P. M. the convention adjourned.—*Express,* Nov. 17, 1846.

AFTERNOON SESSION

Mr. Tweedy wished to make a word of explanation in regard to the report that had just been laid on the members' desks (the report from the select committee on the articles on internal improvements, taxation, finance, and public debt) as his name was attached to it as reporting the same. The chairman (Mr. Ryan) had left for his home on the morning the report was presented, and by his request he had presented the report. He had dissented from several of the sections and also some of the resolutions.—*Democrat,* Nov. 14, 1846.

FRIDAY, NOVEMBER 13, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read and corrected.

Mr. Steele presented two petitions of citizens of Racine County, asking that the homestead of citizens be exempted from forced sales, which were, on his motion referred to the committee on miscellaneous provisions.

Mr. Baird introduced the following resolution, which was read, to wit: "*Resolved,* That the sum of $23.25 for mileage and per diem allowance for the entire session be allowed to the late Thomas P. Burnett Esq., a member of this convention, and that the treasurer of the territory be and he is hereby authorized and directed to pay the same to Alfred Brunson Esq. for the use and benefit of the orphan children of the said Burnett, deceased."

William R. Smith introduced the following resolution, to wit: "*Resolved,* That the use of this hall be granted on Sunday morning next for the purpose of having a discourse delivered by the Rev. S. McHugh, chaplain of the convention, on the late melancholy event of the decease of one of its members." And the rules having been first suspended for that purpose, the said resolution was adopted.

The resolution introduced by Mr. James on the tenth instant, relative to the absence of members, and which was laid over yesterday under the rules, was taken up, when Mr. Holcombe moved that the said resolution be laid upon the table, which was agreed to.

The convention resolved itself into committee of the whole for the further consideration of articles Nos. 10 and 24, Mr. Hunkins in the chair. And after some time spent therein, the committee rose and by their chairman reported the said articles back to the convention with amendments to each.

Moses M. Strong, from the select committee appointed on yesterday to report an apportionment of representation among the several counties, etc., by leave reported a tabular statement on the subject. The said report was accepted. Moses M. Strong moved that the same be printed, which was agreed to.

Mr. Hunkins, from the committee on engrossment, by leave, reported No. 23, "Article restraining leasehold estates," as correctly engrossed.

Mr. Barber moved that the further consideration of No. 10, "Article on constitution and organization of the legislature," be postponed until tomorrow, which was agreed to.

Mr. Whiteside moved that the convention adjourn until two o'clock, P. M., which was disagreed to.

The question being on concurring in the amendments of the committee of the whole to article No. 24, a division of the question was

called for. And the question having been put on the amendments of the committee of the whole, separately, they were severally adopted.

Mr. Berry moved to amend the said article by striking out the twenty-first section thereof, which was disagreed to.

Marshall M. Strong moved to amend by adding a new section, as follows, to wit: "Section —. The legislature shall never authorize any lottery," which was agreed to. And a division having been called for, there were 45 in the affirmative, negative not counted.

Warren Chase moved to amend by adding a new section, as follows: "Section —. It shall be the duty of the legislature to provide by law for abolishing the punishment of death for capital crimes, and for the substitution of some other mode of punishment instead thereof."

And pending the question thereon, on motion of Mr. Hunkins, the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

Article No. 24 was then taken up. And the question being on the amendment of Mr. Chase, Moses M. Strong moved a call of the house, which was seconded, and Messrs. John M. Babcock, Baker, Bell, Bowker, Chamberlain, Coxe, Dennis, Dunning, Ellis, Gray, Hays, Hill, N. F. Hyer, Phelps, Pierce, Randall, John Y. Smith, and Steele reported absent. On motion, Messrs. Chamberlain and Gray were excused from their attendance. Moses M. Strong moved that all further proceedings under the call be dispensed with, some of the absentees having appeared in their seats, which was agreed to. And a division having been called for, there were 25 in the affirmative and 22 in the negative.

The question was then put on the amendment offered by Mr. Chase and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 31, negative 52; for the vote see Appendix I, roll call 105].

Marshall M. Strong moved to amend the said article by adding as follows:

"Section —. One-fifth of the members present of each house shall be entitled to call for the ayes and noes on any question and to have the same entered upon the journal."

Mr. Hicks moved to amend the amendment by striking out the words "one-fifth" and inserting the word "any," which was disagreed to.

The question then recurred on the amendment offered by Mr. Strong. And having been put, it was decided in the affirmative.

Mr. Giddings moved to amend the said article by adding the following section:

"Section —. The legislature shall establish but one system of town and county government, which shall be uniform as near as may be throughout the state, which was agreed to."

And a division having been called for, there were 44 in the affirmative and 8 in the negative.

Wm. R. Smith moved to amend the said article as follows, to wit: "Section —. The legislature shall direct by law in what manner and

in what courts suits may be brought against the state," when Marshall M. Strong called for the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative. And a division having been called for, there were 29 in the affirmative and 13 in the negative.

The question having been put on adopting the amendment of Wm. R. Smith, it was decided in the affirmative. The said article was then ordered to be engrossed for a third reading.

No. 23, "Article restraining leasehold estates," was taken up and read the third time. And the question having been put on the passage of the said article, it was decided in the affirmative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 70, negative 9; for the vote see Appendix I, roll call 106].

Mr. Burt asked that leave of absence be granted him. Leave was granted.

Moses M. Strong moved that the convention do now adjourn, which was disagreed to.

The convention then resolved itself into committee of the whole for the consideration of articles Nos. 5, 6, and 7, and on sundry resolutions, Mr. Judd in the chair. And after some time spent therein the committee rose, and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Mr. Warren Chase the convention adjourned.

SATURDAY, NOVEMBER 14, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Mr. Rogan presented a petition of citizens of Jefferson County, asking that the homestead of citizens be exempted from execution or forced sale, which on his motion was referred to the committee on miscellaneous provisions.

Mr. Hunkins, from the committee on engrossment, reported No. 24, "Article on the powers, duties, and restrictions of the legislature," as correctly engrossed.

The resolution introduced by Mr. Baird on yesterday, relative to the mileage and per diem of the late Hon. Thos. P. Burnett, was taken up and adopted.

No. 24, "Article on the powers, duties, and restrictions of the legislature," was read the third time, when Mr. Lovell moved to recommit the article to the committee that reported it, with instructions to strike out the section providing that the state may be sued. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 43, negative 39. For the vote see Appendix I, roll call 107].

No. 10, "Article on the constitution and organization of the legislature," was taken up, when Moses M. Strong moved that the further consideration thereof be postponed until Monday next, which was agreed to.

And a division having been called for, there were 57 in the affirmative, negative not counted.

Mr. Parker [Barber] asked that leave of absence be granted to Mr. Patch. Leave was granted.

The convention then resolved itself into committee of the whole for the consideration of articles Nos. 5, 6, and 7, and sundry resolutions, Mr. Judd in the chair. And after some time spent therein the committee rose and by their chairman reported progress thereon and asked leave to sit again thereon on Monday next. Leave was granted.

Wm. R. Smith, from the select committee to whom was referred the petition of Matthias J. Bovee, asking to contest the seat of Mr. Burchard, made the following report, to wit:

"The committee to whom was referred the petition of Matthias J. Bovee contesting the seat of Charles Burchard as a member of this convention report that under the rules established by the committee the parties proceeded to procure their written testimony, and in pursuance of the same the depositions of sundry witnesses have been returned to the committee, to wit:

"Thirteen on the part of the contestant, and four on the part of the sitting member, namely: those of Joseph Bond, William H. Burgess, George Stockman, and Martin Field, the board of inspectors of the late election at the town of Mukwonago.

"That the contestant alleges that he has been unable (from causes not satisfactorily made known to your committee) to procure the written testimony of sundry witnesses, among whom are named Joseph Bond and George Stockman, whose testimony taken on the part of the sitting member is already before the committee; and in consequence of the said inability on part of the contestant, he asks, under the rules of the committee, further time to procure his testimony, and desires the power of the convention to be interposed in his behalf in sending for the persons of Justin Olin, Joseph Bond, John H. Camp, George Stockman, Joseph Smart, Christopher R. Harvey, Robert Charley, Asa Hollister, Perry Craig, Robert Wilkinson, S. Yates Scovill, Leonard P. Silvernail, Lambert Colin, James Bennett, Justin S. Olin, E. B. Richardson, and Edward McGee, they therefore of[fer] the following resolution:

"*Resolved,* That the committee have power to send for the persons of the witnesses named in the above report on the part of the contestant.

"Respectfully submitted,
W. R. Smith, Chairman"

Mr. Baker moved to amend the resolution by adding as follows: "*Resolved,* That the territory or state of Wisconsin shall not incur or pay any of the expenses of such proceedings or examination," which was agreed to.

Warren Chase moved that the said resolution be laid upon the table, which was disagreed to.

Mr. Hunkins moved that the further consideration of said resolution be postponed until Monday next, which was disagreed to.

The question was then put on the adoption of the resolution as amended and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 3, negative 77. For the vote see Appendix I, roll call 108].

The convention then resolved itself into committee of the whole on the report of the committee on miscellaneous provisions on resolution No. 5, Mr. Hunkins in the chair. And after some time spent therein the committee rose and reported the same back without amendment. The report of said committee was then adopted. The question being on the convention resolving itself into committee of the whole for the consideration of the report of the committee on miscellaneous provisions on resolution No. 2, Moses M. Strong moved that the committee be discharged and the said report laid on the table, which was agreed to.

Mr. Hicks, by leave, introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on eminent domain and property of the state inquire into the expediency of limiting the quan-

tity of land any individual may hereafter possess in this state; and also the expediency of providing that, after the death of present owners, the limited quantity be apportioned to the heirs, respectively, and the surplus, if any, be sold, and the proceeds distributed among the heirs."

On motion of Moses M. Strong the convention adjourned.

Monday, November 16, 1846

Prayer by the Rev. Mr. Miner.

The journal of Saturday was read.

Asa Kinne asked that leave of absence be granted to Horace Chase. Leave was granted.

Wm. R. Smith, by leave, presented the petition of ministers of the gospel asking that no article be engrafted in the constitution disfranchising clergymen, which on his motion was referred to the committee on miscellaneous provisions.

Mr. Agry, from the committee on the powers, duties, and restrictions of the legislature, reported No. 27, "Article requiring the legislature to prohibit theatrical shows," which was read. And the question having been put on referring the said article to the committee of the whole, and ordering the same to be printed, it was decided in the negative. And a division having been called for, there were 24 in the affirmative and 29 in the negative.

Mr. Agry, from the same committee to whom No. 24, "Article on the powers, duties, and restrictions of the legislature," had been referred with the instructions to amend the same by striking out the tenth section thereof, reported the same back with amendment, which was to strike out the tenth section.

Moses M. Strong, from the select committee to which it was referred to make an apportionment of senators and representatives, reported No. 28, "Article on the apportionment of senators and representatives."

"The select committee appointed to report an apportionment of the senators and members of the house of representatives among the several counties respectfully submit the following and recommend its adoption to stand as a section in the article on the constitution and organization of the legislature.

"Section —. Until there shall be a new apportionment of the senators and members of the house of representatives, the state shall be divided into senatorial and representative districts as follows, and the senators and members of the house of representatives shall be apportioned among the several districts as follows, viz:

The county of Brown shall constitute the first representative district, and shall be entitled to one representative.

The counties of Calumet and Manitowoc shall constitute the second representative district, and shall be entitled to one representative.

The counties of Marquette and Winnebago shall constitute the third representative district, and shall be entitled to one representative.

The county of Sheboygan shall constitute the fourth representative district, and shall [be] entitled to one representative.

The county of Fond du Lac shall constitute the fifth representative district, and shall [be] entitled to one representative.

The county of Columbia shall constitute the sixth representative district, and shall be entitled to one representative.

The counties of Portage and Sauk shall constitute the seventh representative district, and shall be entitled to one representative.

The county of Washington shall constitute the eighth representative district, and shall be entitled to three representatives.

The county of Dodge shall constitute the ninth representative district, and shall be entitled to three representatives.

The county of Milwaukee shall constitute the tenth representative district, and shall be entitled to six representatives.

The county of Waukesha shall constitute the eleventh representative district, and shall be entitled to five representatives.

The county of Jefferson shall constitute the twelfth representative district, and shall be entitled to three representatives.

The county of Dane shall constitute the thirteenth representative district, and shall be entitled to three representatives.

The county of Racine shall constitute the fourteenth representative district, and shall be entitled to seven representatives.

The county of Walworth shall constitute the fifteenth representative district, and shall be entitled to five representatives.

The county of Rock shall constitute the sixteenth representative district, and shall be entitled to five representatives.

The county of Green shall constitute the seventeenth representative district, and shall be entitled to two representatives.

The county of Iowa shall constitute the eighteenth representative district, and shall be entitled to six representatives: *Provided*, That whenever the said county of Iowa shall be divided, and two new counties shall be organized out of the same, then the northern of said two new counties shall be entitled to three representatives, and the southern of said two new counties shall be entitled to three representatives.

The county of Grant shall constitute the nineteenth representative district, and shall be entitled to five representatives.

The counties of Crawford and Richland shall constitute the twentieth representative district, and shall be entitled to one representative.

The counties of St. Croix, Chippewa, and La Pointe shall constitute the twenty-first representative district, and shall be entitled to one representative.

The counties of Brown, Calumet, Winnebago, Manitowoc, and Sheboygan shall constitute the first senatorial district, and shall be entitled to one senator.

The counties of Fond du Lac, Marquette, Columbia, Portage, and Sauk shall constitute the second senatorial district, and shall be entitled to one senator.

The county of Washington shall constitute the third senatorial district, and shall be entitled to one senator.

The county of Dodge shall constitute the fourth senatorial district, and shall be entitled to one senator.

The county of Milwaukee shall constitute the fifth senatorial district, and shall be entitled to two senators.

The county of Waukesha shall constitute the sixth senatorial district, and shall be entitled to two senators.

The county of Jefferson shall constitute the seventh senatorial district, and shall be entitled to one senator.

The county of Dane shall constitute the eighth senatorial district, and shall be entitled to one senator.

The county of Racine shall constitute the ninth senatorial district, and shall be entitled to two senators.

The county of Walworth shall constitute the tenth senatorial district, and shall be entitled to two senators.

The counties of Rock and Green shall constitute the eleventh senatorial district, and shall be entitled to two senators.

The county of Iowa shall constitute the twelfth senatorial district, and shall be entitled to two senators: *Provided*, That whenever the said county of Iowa shall be divided, and two new counties shall be organized out of the same, then the northern of said two new counties shall be entitled to one senator and the southern of said two new counties shall be entitled to one senator.

The county of Grant shall constitute the thirteenth senatorial district, and shall be entitled to two senators.

The counties of Crawford, Richland, Chippewa, St. Croix, and La Pointe shall constitute the fourteenth senatorial district, and shall be entitled to one senator.

A. Hyatt Smith, Chairman."

Moses M. Strong moved that the same be laid on the table until article No. 10 shall be taken up, which was agreed to.

Wm. R. Smith, from the committee to whom was referred the petition of M. J. Bovee, asking to contest the seat of Mr. Burchard, made the following report:

"The committee to whom was referred the petition of Matthias J. Bovee, contesting the seat of Charles Burchard as a delegate to this convention from the county of Waukesha, report:

"That they have duly considered the matter referred to them, the evidence submitted to them, taken under the rules established by the committee, and have heard the parties by themselves and counsel, so as to enable them to form a conclusion on the whole case as it appears before the committee.

"The contestant alleges that fraud has been practiced at the late election at the town of Mukwonago, in Waukesha County, in some manner, and by some person, neither of which is specified or designated by the contestant. He further alleges that he received more votes at such election than have been credited to him on the election returns. He

further alleges that the election is void and ought to be set aside because the poll lists were not returned according to law.

"The evidence which your committee have had submitted to them consists in thirteen depositions taken on the part of the contestant, four depositions taken on the part of the sitting members, which are of the three inspectors and clerk of the election at the town of Mukwonago, the poll lists and certificates of election returns as certified by the board of supervisors and town clerk of the town of Mukwonago; also, the certificate of the county clerk of Waukesha County in relation to the absence of the returns of poll lists of several election districts in Waukesha County.

"From the above evidence it appears that at the late election at Mukwonago District, Charles Burchard received ninety votes, and Matthias J. Bovee received thirty-six votes as delegate to this convention.

"Of the thirteen depositions produced on the part of the contestant, six persons testified that they each voted tickets from which the name of Matthias J. Bovee was erased. Two testified that they each voted tickets from which the name of Matthias J. Bovee was not erased. One testified that he voted a Whig ticket with the name of Matthias J. Bovee upon it. One testified that he voted a written ticket, containing the name of M. J. Bovee, and three did not testify anything whatsoever about their votes.

"Five persons summoned before the justice who took the depositions on the part of the contestant refused to be sworn. Two of said persons on a subsequent day gave their depositions on the part of the sitting member, of which depositions the contestant had notice at the time they were taken.

"Such, then, is the case as presented by the evidence before the committee.

"With regard to the allegation of fraud in some manner and by some person at the Mukwonago election, no evidence whatsoever has been exhibited by the contestant in support of such allegation, and in the total absence of such evidence the committee deem it wholly unnecessary to defend the character of the officers of the said election, when even the insinuations against them as made by the contestant are considered by the committee as without foundation.

"In relation to the contestant having received more votes at the said election than have been credited to him on the election returns, the committee are at a loss to perceive how such an idea could be entertained, on an examination of the evidence before them. He did not receive as many votes as the other candidates on the same ticket. Six of his own witnesses swear that they voted tickets from which his name was erased. He has received a credit on the poll lists for thirty-six votes, and it does not appear in any part of the testimony that those who swore that they voted for him were not included in the thirty-six.

"As to the point raised by the contestant that the election is void because the poll lists were not returned according to law, the committee have had the poll lists returned by the proper officers to them, that is, certified copies of them, and sufficient evidence appears that the elec-

tion was legally and properly conducted, and the returns properly certified. The committee have not considered the question thus raised as either within their province and duties or requiring a report to be made thereon.

"The committee are therefore of the opinion that the contestant, Matthias J. Bovee, has failed in producing evidence to support the prayer of his petition, and they submit the following resolution:

"*Resolved,* That the committee be discharged from the further consideration of the subject.

W. R. SMITH, Chairman"

The said report was accepted and the committee discharged from the further consideration of the subject.

Wm. R. Smith introduced the following resolution, which was read, to wit: "*Resolved,* That the Rev. Mr. McHugh, chaplain to this convention, be requested to furnish a copy of the discourse delivered by him before the convention, on Sunday last, and that the same be printed for the use of the convention."

Mr. Reed introduced the following resolution, to wit: "*Resolved,* That at the election at which the votes of the electors shall be taken for the adoption or rejection of the constitution, the following article, to wit:

"Section 1. The legislature shall have no power to pass any act granting any special charter for banking purposes.

"Section 2. No corporation within this state, nor any agency of any banking institution or other corporation without this state, shall issue within this state any kind of paper to circulate as money.

"Section 3. The legislature shall have power, by a vote of two-thirds of the members of each house, to pass general laws under which associations may be formed for banking purposes.

"Section 4. Every such law shall provide:

"First. That the individual property of the stockholders shall be liable for the dues of any such association.

"Second. That every association shall deposit within the office of the secretary of state ample security for the redemption of its circulating notes and other liabilities to the amount of the stock of such association, either in stocks of the United States or of some paying state of the United States.

"Third. That such stocks, when so deposited, shall be appraised at their market value in the city of New York, and shall be reappraised upon the same basis annually thereafter, during the continuance of such association.

"Fourth. That no such association shall issue any notes or paper to circulate as money that are not registered and countersigned by the secretary of state; and no such association shall receive or put in circulation notes or paper of an amount exceeding the appraised value of its stocks deposited as security; and if any such stock so deposited shall become depreciated, such association shall be required to make a further deposit of stocks to the amount of such depreciation.

"Fifth. That all notes or paper issued by such association to circulate as money shall be made payable in gold or silver coin, on demand at the place issued.

"Sixth. That if any such association shall fail to redeem its circulating notes or other dues on demand, the securities deposited shall be sold and the proceeds of the sale applied first to the redemption of its circulating notes, second to the payment pro rata of other liabilities of such association.

"Seventh. The legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any association issuing bank notes of any description.

"Section 5. Every such law shall be published at least six months next preceding any general election, and be submitted to the votes of the electors at such election, and if approved by a majority of the electors voting upon that subject, shall take effect and not otherwise,"

electors voting upon that subject, shall take effect and not otherwise" or rejection, in form following, to wit: 'A separate ballot may be given by every person having the right to vote for the constitution, to be deposited in a separate box. Upon the ballots given for the adoption of the said separate article shall be written or printed, or partly written and partly printed, the words "General Banking Laws? Yes!" And upon the ballots given against the adoption of the separate article, in like manner the words "General Banking Laws? No!" And on such ballots be written or printed, or partly written and partly printed, the word "Banking," in such manner that such words shall appear on the outside of such ballot when folded. If, at the said election a majority of all the votes given for and against the said article shall contain the words "General Banking Laws? Yes!" then the said separate article shall be article —— of this constitution, in full force and effect, anything contained in the constitution to the contrary notwithstanding.'"

Moses M. Strong moved that the consideration of the said resolution be indefinitely postponed. And pending the question thereon, the morning hour having expired, Moses M. Strong moved that the rules be suspended for the consideration of the said resolution. And the question having been put, it was decided in the negative, two-thirds not having voted therefor. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 50, negative 40; for the vote see Appendix I, roll call 109].

This having been read through by the Secretary, the President decided it did not fall within the rule of resolutions lying over one day, but on the contrary that it was then open for consideration.

Moses M. Strong moved to postpone the same indefinitely.

Mr. Elmore hoped that course would not be pursued, but that it might take the usual course and be printed, that the convention might see how it looked.

Moses M. Strong said that all he desired was to save the time of the convention, which must of necessity be taken up in the discussion of this article. The same subject had been before the convention and by them rejected, and gentlemen ought with that to be content.

Mr. Tweedy did not so understand the question before the convention. The question now presented was whether they would allow the people to say that free banking might exist in the state, whereas, it had been before presented in the form of having the convention decide that question without any regard to the will of the people.

Moses M. Strong would not vote to submit any question to the people for their votes which he would not vote for directly.

Mr. Judd was opposed to this summary disposal of the article; it deserved to be more courteously treated—to be printed, that members could act understandingly.

Mr. Reed desired to give his views on the subject when it should come up in its order, but was not prepared to do so now.

W. Chase did not again want to have the bank question brought before the convention, believing as he did that it was properly settled at present.

Mr. Elmore said he should vote against all such projects as that proposed by his colleague. He was opposed to banks and bank paper in all its shapes and forms; but at the same time as Mr. Reed had lately been among his constituents, and had come back with changed views in relation to banking, Mr. Elmore hoped the convention would give him an opportunity of giving the reasons of his sudden conversion. For one, he was induced in some measure by curiosity to hear what he had to say for his article.

Marshall M. Strong did not think that it was treating the gentleman discourteously to make the motion proposed. That course was frequently taken, when a vote was desired as a test on a naked proposition. Courtesy did not require this article to be passed through all the forms of readings and printing

for the sake of being killed afterwards. He was ready to vote at that time, and believed the same was the case of every member on the floor.

Mr. Whiteside said every man ought to have come here prepared to vote on this question; they should have known the minds of the people of their counties on this subject, especially as it had been greatly agitated among them. Delay or agitation of this matter was unnecessary, as this and the test vote might as well be taken now as at any time.

Mr. Randall denied that this question had ever been before the convention. Those questions were for the convention to decide upon, this for the people. He protested against this attempt to dodge the question in this indirect manner, to choke the friends of the measure from perfecting it.

While he was speaking the clock struck ten, and the orders of the day were called for, so no question was taken.—*Express*, Nov. 24, 1846.

No. 24, "Article on the powers, duties, and restrictions of the legislature," was taken up. And the question being on concurring in the amendment of the committee of the whole thereto, which was to strike out the tenth section thereof, Warren Chase called for the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

And the question having been put on concurring in the said amendment, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 41, negative 53; for the vote see Appendix I, roll call 110].

Mr. Kellogg was excused from voting, he not having been in attendance during the discussion on the above question. The said article was then ordered to be engrossed for a third reading.

No. 10, "Article on constitution and organization of the legislature," was then taken up. And the question being on concurring in the amendments of the committee of the whole thereto, a division of the question was called for. The question being on concurring in the first amendment, Moses M. Strong moved to amend the same by striking out "60" and inserting in lieu thereof "62." And pending the question on said amendment, on motion of Asa Kinne the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

Article No. 10 was taken up. And the question having been put on adopting the amendment of Moses M. Strong, it was decided in the

affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 62, negative 22. For the vote see Appendix I, roll call 111].

The amendment as amended was then adopted.

The second amendment of the committee of the whole was then adopted.

And the question being on the third amendment of the committee of the whole, which was to strike out the fourth section, Moses M. Strong moved to amend the same by adding, "and insert the article reported by the select committee to whom it was referred to make an apportionment [of representation] for the senate and house of representatives," when Mr. Magone moved that the further consideration of the said article be postponed until tomorrow, and that the said amendment be printed.

A division of the question was called for. And the question having been first put on postponing, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 49, negative 49; for the vote see Appendix I, roll call 112].

Mr. Dennis moved that the convention do now adjourn, which was disagreed to.

Mr. Magone moved that the said article be committed to the committee of the whole and ordered printed.

Moses M. Strong moved that the further consideration of said article be postponed until tomorrow morning at ten o'clock, and that the said amendment and a tabular statement on the same subject be printed, which was agreed to.

On motion of Mr. Hunkins the convention adjourned.

On the Constitution of the Legislature

This article came up on agreeing to the report of the committee of the whole.

Moses M. Strong moved to amend the report of the committee fixing the number of the house of representatives at sixty by making it sixty-two; and said that sixty-two was the number agreed upon by the committee of nine, to whom this subject had been referred, except that Mr. Beall wanted one member given to his county, Marquette.

H. Barber hoped the motion would prevail—that the convention should determine what number should be placed in the house of representatives.

W. Chase could not well see what connection the adoption of a number as the amount of the house had to do with the distribution of the members. The only question in his mind

was this, Is sixty-two the best number that can be fixed upon for the house of representatives? Not how many will this or that county get.

Mr. Holcombe could not so look upon the question, but that the fixing the number in the section was the commencement of a series of amendments reported by the committee of nine. If he had rightly understood the report of the committee, as read by the chairman thereof, all the northern counties were to have but one representative, without any reference to their population, position, or disconnection.

W. R. Smith hoped the amendment would be adopted. It was well known that there had been a great deal of discussion in the convention on this subject, and much time spent; that in order to save the time of the convention the committee of nine had been raised on this subject. After a full and fair discussion of the whole matter the committee had agreed that sixty and twenty were the best numbers for the two houses; but as a compromise with the small counties which claimed each a representative, two had been added to the house and one to the senate and these were given to the northern and small counties.

(Mr. Beall of Marquette addressed the convention at length upon this subject. We shall publish his remarks next week.)

H. Barber said he did not design to enter into a discussion of the report of the select committee of which he was a member at this time; he preferred to wait until the report itself came up, and should not have arisen at this time but for what he considered a very unjustifiable attack made upon him by the gentleman from Marquette, impugning the motives by which he had been governed on the select committee, and to defend himself he should be obliged to go somewhat into the history of the matter. He said it would be recollected that when the article now under consideration was first before the committee of the whole several days since, he offered an amendment to strike out forty-five as the number of the house of representatives and insert sixty-five. He then stated his object to be to enlarge that body so as to give each of the organized counties a representative. That motion failed; sub-

sequently the proportion was twice presented by other members and rejected. The subject after a lengthy discussion was referred to a select committee, and on that committee the motion to base the representation upon population was put and rejected, four of the committee voting for it and five against it, when it became apparent that if the proposition as presented to the house and as argued before the committee by the gentleman from Marquette was adopted by the majority of the committee, there would be a minority report, and the whole subject would return to be settled by the convention, without gaining anything by the appointment of the select committee. A proposition was then presented which resulted in what was then considered a compromise, making a house of sixty-two and a senate of twenty, all the members of the committee agreeing to it, except the gentleman from Marquette.

The proposition to increase the house two members gave the two members to the north part of the territory where he was desirous to extend the representation. Such, sir, said Mr. Barber, was the action of the committee on Saturday, but this morning just before the report was made the committee met to hear the report as drawn up by the chairman and then the proposition was made to increase the senate by one. He then opposed such increase unless the northwest, where the new senator was to be located, would give up two of their representatives to the four northern counties, which by the report was to have but two, which was refused and he voted against the alteration, whilst the gentleman from Marquette, himself, voted for it.

And now, sir, the gentleman sees fit to attack me for what he is pleased to call my desertion of him, and he has referred to political division amongst the Democratic party on this floor, and has said he did not know what consideration had been held out to me to abandon him and to go over to the enemy. Sir, if the gentleman has supposed that I have been acting with him in this matter from any such consideration, he has mistaken my motive. In presenting this subject at first he was influenced by the consideration that immediately after the organization of a state government important subjects of legis-

lation would come before the legislature, and one in relation to the improvement of the Fox and Wisconsin rivers, in which the northern counties had a deep interest, and he desired that those counties bordering upon these rivers should each have a representative in the first legislature, and with that view and for that object he had advocated the measure throughout. But the gentleman from Marquette, before he accuses me of acting from improper motives when I manifested a disposition to compromise the matter, and obtaining thereby a part of what I had been aiming at, should recollect that the two gentlemen from Brown, coming from a section of territory having an interest in common with all these small counties he is so anxious should have a representative, have opposed this proposition throughout both in the committee of the whole when it was first presented by me, and voting against it on select committee where the gentleman complains of my action.

Now, sir, said Mr. Barber, I consider the attack made upon me by the member from Marquette as unjustifiable, uncalled for, and ungentlemanly, and as such I repel it.

Moses M. Strong moved to amend the amendment of the committee of the whole, which was to strike the fourth section from the article, by adding thereto "and insert" [the section he had reported this morning] on which a debate ensued, which consumed the remainder of the day.

Mr. Magone moved to postpone the whole subject to tomorrow. Ayes 49, noes 49.

Mr. Magone moved to recommit the article to the committee of the whole, and that the amendment be printed.

Moses M. Strong moved to adjourn; which prevailed.—*Argus,* Nov. 24, 1846.

Tuesday, November 17, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Hiram Brown asked that leave of absence be granted to Mr. Phelps. Leave was granted.

Mr. Hesk presented the petition of citizens of Waukesha County, asking that the homestead of citizens be exempted from forced sale, which, on his motion, was referred to the committee on miscellaneous provisions.

Marshall M. Strong, from the committee on engrossment, reported No. 24, "Article on the powers, duties, and restrictions of the legislature," as correctly engrossed.

Mr. Moore introduced the following resolution, which was read, to wit: "*Resolved,* That this convention hold evening sessions as follows: on Monday, Wednesday, and Friday evenings, commencing at seven o'clock."

The resolution introduced by Wm. R. Smith on yesterday, relative to publishing the discourse of the Rev. Mr. McHugh, was taken up, when Mr. Hunkins moved to amend the same by inserting "1,000 copies," which amendment was accepted by Wm. R. Smith. The said resolution was then adopted.

The resolution introduced by Mr. Reed on yesterday was taken up. And the pending question thereon being on its indefinite postponement, and having been put, it was decided in the affirmative.

And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 65, negative 30; for the vote see Appendix I, roll call 113].

Free Banking

The President announced that the question before the convention was the motion of Moses M. Strong to postpone indefinitely the resolution and article introduced by Mr. Reed, to submit the question of free banking to the votes of the people, and which had been cut off on yesterday by the expiration of the morning hour. Mr. Reed rose and remarked that he did not consider himself able on account of his health to speak on the merits of his proposition as he could wish to do. On this account he had committed what he had to say on this subject to paper, and which he asked consent to read.

The motion prevailed and the resolution was lost.—*Argus*, Nov. 24, 1846.

BANKS AND BANKING

(Remarks of Mr. George Reed, November 17, 1846)

Mr. President: When I voted for the article on the subject of banks and banking, I did so for the purpose of having that vote reconsidered—being opposed to any legislative restrictions upon that subject; but, on reflection, as so large a majority of the convention was of opinion that the article would meet the approval of the people, I thought it would be idle to attempt to change materially the features of it, and that it would be permitted to go forth to the people in its present shape; but at the same time, not willing to risk the fate of the constitution itself upon the issue upon that single measure, I came to the determination to pursue another course which I thought would not fail to meet the approbation of a large majority of this convention. But, sir, when I introduced yesterday the resolution to submit to a vote of the people a separate article, a motion from a quarter from which I thought I had reason least to expect it was made to postpone indefinitely; and the vote which was taken after the morning hour had expired on a suspension of the rule in order that the vote might be taken on that motion satisfied me that I had greatly mistaken the views of certain gentlemen of this convention; and, sir, unless the gentleman will withdraw his motion and allow the resolution to be referred to the committee of the whole and printed, I shall be compelled now to give briefly some of the reasons which impelled me to offer the resolution, though the feeble state of my health admonishes me that I ought to be silent.

The article which we have adopted contains the most extraordinary declarations and provisions. It declares that nothing but gold and silver coin and foreign bank bills shall be used or circulated as a currency within this state; it declares that no person shall have the right to issue, or receive or pay out, within this state, any kind of paper credits intended to circulate as money; it declares that no person shall pass or put in

circulation, within this state, any paper credit of certain denominations, issued under the authority of any other state of the Union, or of the United States; it declares that no corporation shall receive deposits, or buy or sell bills of exchange; and it provides that the legislature shall enforce the observance of all these declarations by the enactment of penal statutes; it provides that any person who shall not surrender certain natural rights which he is allowed to exercise under every constitution of the states must lose his property or his personal liberty. From a deep and settled conviction in my own mind that the people will not impose upon themselves these restrictions I am induced to offer this proposition.

Sir, while on the one hand the people will not submit to be governed by chartered monopolies, nor suffer their rights and interests to be hedged in and circumscribed by special privileges enjoyed by the few, they will never, on the other, sanction a constitutional provision that destroys their own freedom of action, and deprives them of all the advantages of a great branch of trade and commerce so highly useful when left like any other pursuit to the control and management of the people themselves.

The measure which we have already adopted has satisfied the people that we have but little confidence in, and place but little reliance upon their wisdom and virtue, or their capacity of self-government. It shows that we have drawn our arguments and observations from the peculiar situation of our territory ten years gone by, when the mere frontier of civilization, instead of looking forward to the time when our state is to become peopled with its millions and its wealth increased in an equal ratio. What change of circumstances and time may produce none here can foresee, and none here ought to pretend that we are able to declare; and the only safe principles for the guide and government of our action here are that there is enough of intelligence—enough of honesty and integrity of purpose—enough of wisdom and virtue among the people, at all times, for self-government—that the most enlightened freedom among the people is that which is the most enlarged; and, sir, the power over this subject will be safe in

their hands, and their rights and interests, individually and collectively, will be better promoted, better guarded and protected, without the chains and fetters which by this measure we ask them to put on—without the despotism of this constitutional rule which we ask them to adopt.

Our wealth and population are increasing rapidly—our trade and commerce are growing in importance and will continue to advance more rapidly than those of any other state of the West, unless the people should adopt the narrow-minded, jealous, and restrictive policy which we have proposed.

And, sir, I tell gentlemen that this "hard" system, which appears so charming and beautiful to them in theory, can never be reduced to practice, without breaking the intercourse, disturbing the mutual participation in commerce, and destroying the business and social relations which now and ought ever to exist between the citizens and people of this state and the citizens and people of other states.

The people feel, and, sir, we ought to feel that we are incompetent to foresee the future condition and prescribe the future wants—to measure in advance the progress, define the resources and the means adequate to their full development—to frame and adjust measures calculated to meet the emergencies and varied and varying circumstances which must necessarily mark the career of this state during the few years to come.

What we were six years ago and what we are today—what was our condition then and what it is now—is so different that the legislation applicable to our wants at the one time falls far short of our present requirements.

No one in 1840, when a population numbering a little more than 40,000 was to be provided for, would have dared to extend his legislative functions to meet the rapid increase and development of population, wealth, and resources since, from that time to this. How then are we prepared to do the same thing now? Commercial and agricultural facilities and employment increasing with incalculated rapidity—every means of industry, every opportunity for the investment of capital multiplying daily around us—every district opening new treasures, inviting the attention and stimulating the energy of our

people—every day rolling up to our astonished vision new discoveries in every department of human enterprise—who, I ask, sir, can tell the measures and means necessary to foster, encourage, and protect all these interests which are daily increasing in magnitude and diversity? Who has a vision so penetrating as to enable him to scan the future and adapt special legislation to the advancing strides of our state and people? As well might you attempt to cut and form for the infant in the cradle its successive garments through the periods of childhood, youth, manhood, and old age!

Sir, the people desire to be left free to act as the genius of the times or the spirit of the age shall require, and they will not voluntarily yield that freedom of action so necessary to their own well-being, to be chained up by a constitutional provision, nor will they permit it to be destroyed or curtailed by the mere government agency which they will soon be called upon to establish. They will not give to their government agency the power to create distinctions in the condition of the people by bestowing privileges upon the few which are denied to the many—they will not give the power to enact laws that shall not recognize the perfect equality of human rights or that shall be untrue to the great principles and interests of democracy.

All the affairs of trade and commerce will be left to regulate themselves, independent of any legislation upon the subject, except such as shall be necessary for the prevention and punishment of frauds and for the protection of the equal rights of the people.

And, sir, I contend that banking is a distinctive branch of business, with which the government should have no more to do than with any other branch engaged in, carried on, and conducted either by individuals or associations; affording equal protection to, and imposing equal liabilities upon associated and individual capital—extending to the one hundred men with their thousand dollars each, associated, the same privileges that are enjoyed by the individual with his one hundred thousand dollars.

The Constitution of the United States made gold and silver the standard of value, or, in other words, the legal currency of the country, and most wisely left its regulation to the natural laws of trade, conferring no power upon the federal government to establish a bank and give to a few individuals the exclusive privilege of furnishing and regulating the currency and exchanges of the country. When the United States Bank was chartered the constitution was violated; when the different states chartered their numerous bank monopolies a doubtful power was exercised and certain natural rights of the people were taken away in the bestowal of certain special privileges on the few to regulate the affairs of the many; hence grew up a system of banking in the United States, the most corrupt and corrupting—a system which has proved disastrous to the best interests of the country—a system which by disturbing or defeating the legitimate operation of the natural laws of trade has at times shook the commerce of the nation from its center to its circumference and caused bankruptcy and ruin throughout the land. All this has afforded an eloquent theme for declamation, and changes have been rung upon it in this hall by gentleman who claim to belong to the pure, uncorrupted, and incorruptible Democracy. All this has been seized upon and used as an argument, and for the purpose of frightening men from their propriety and getting engrafted into the constitution of this state a provision which, if sanctioned by the people, will abridge their natural rights. And, sir, gentlemen in their zeal in advocating or defending what they term a vital principle in the polity of our state have stepped beyond the bounds of reason and left open to attack the names of Madison, Jackson, Van Buren, Calhoun, and Polk, and from the position which they occupy here are unable to utter one word in defense of these great names.

Yes, sir, the bright names of Madison and Jackson are to be struck from the Democratic roll—Van Buren, Polk, and Calhoun are to be read out of the Democratic ranks by the new lights which have recently sprung up in the West.

If to oppose the connection of government with banks—if to oppose the mingling of politics with the question of cur-

rency—if to oppose legislative machinery for the regulation of currency and exchange—if to oppose all legislative interference with, and restrictions upon, any of the natural laws of trade—if to oppose any infringement of the natural and equal rights of the people, by taking from them the power over the questions of banking and currency—makes men bank men, then all these great names are obnoxious to the charge, and the anathemas which have been uttered by gentlemen here must fall upon them.

But, sir, there is another and more important feature in this proposition. Sir, I have a deep and abiding confidence in the people to guard their interests at all times. Individual men may quail before the exigencies of the times, but the people are competent to any emergency. Individuals may shrink from responsibility, but the people are equal to any occasion that calls for their action.

The observation of individuals is limited to the circle within which they move, but the people, as a whole, are everywhere present, scanning every measure and accurately calculating its effects upon individual prosperity and the public welfare.

This proposition leaves the people free to think and act, to choose, adopt, sanction, or reject, discard, and condemn either policy, according as it shall promise to promote or retard their progress. Instead of 120 minds being brought to bear upon this great question, I propose that 200,000 minds shall judge it, and as many tongues discuss it. Let this proposition go forth to the people, and it will be discussed and tried in every counting room, in every office, at every fireside, in every field, shop, and cabin in the state. Mind will enlighten mind, experience will be added to experience, thought will beget thought, and thus the aggregate wisdom of the whole people will be, as it were, transmitted from man to man, till the voice of the people shall finally settle the question, and settle it wisely.

And why not subject this question to this tribunal? The will of the people should be our law. No one here desires to run counter to the popular will. Then why check its utterance? Why fear its voice? Has Democracy progressed so far as to

have leaped from the bosom of the people to the arms of a few political aspirants? Are gentlemen so much wiser than their constituents that the latter are not permitted to think or speak but through the mind and lips of guardian keepers? Do gentlemen fear the adoption by the people of this proposition? And, sir, suppose the people in their simplicity shall say that they will keep the power over this subject in their own hands, to be used or not at their discretion, will gentlemen be less wise and learned in that event?

Sir, I would not do aught to diminish the Democratic fervor that seems to animate gentlemen who oppose a popular test of this question. I would not take a Democratic hair from their head because I would have the number less. I would not let down the Democratic standard which has been erected, but I would like to see the people elevated to that standard. Sir, though from the effects I have observed on others I would not venture upon the giddy height from which our leaders survey the Democratic field, yet I do think we may trust the people there a little moment. Sir, gentlemen would usurp the place which belongs to the people.

Sir, a man of olden time, on surveying this human constitution of ours with all its parts and members so wisely and so appropriately adapted to its design, was forced to exclaim that it was fearfully and wonderfully made. And, sir, I greatly fear that the people will so exclaim of the constitution we shall frame, though perhaps with different sentiments, and for different reasons, unless we regard the practical good sense which the people require in exercise.

Sir, the time was when constitution-making was a rare affair, and many men found themselves suddenly enlarged by having a hand in the matter. But those days are gone by. It has become a common affair now. There are so many of them, and all so similar that I have little expectation of seeing any considerable number of great men indebted for their greatness to their seat here. It will therefore be quite as well to turn our attention to the business of making a constitution for the people, instead of making one for ourselves.

Sir, if there is a diversity of opinion here on this subject of banking and currency, that is the best evidence that there is a diversity of opinion among the people. Then, sir, let the people decide the matter. Let them have it as they like, and our duty will have been done. If the people err, as err they sometimes do, they are always prompt to correct their error. They never hang themselves upon pride of opinion, nor do they fear to do right because they may have been committed to the wrong. Consistency is never so beautifully exemplified as in a steady pursuit of the right even though it leads us to a discovery and acknowledgment of the fact that we have been in the wrong.

If, therefore, we have advanced too far in our endeavor to guard and protect the currency of the people—if, sir, in our endeavors to keep the people out of the fire we have so hampered them that they are unable to get out of the mire, let us at least put into their hands the knife or scissors that they may cut the bands if they choose to do so.

It may be, nay, sir, it has been contended that the will of the Democratic party has been expressed on this subject; that this is now a settled question with the party. But, sir, is it so? Then why this difference of opinion among good men and true, on this floor. Why this diversity of sentiment among members representing different constituencies, aye, and even among gentlemen representing the same constituency? Why has this proposition gone out from a Democratic convention in another state? Why this desire of good Democrats to submit it to the people? I'll tell you, sir. The people have not passed upon the question. And the very measure now proposed will accomplish that result. Let that result be accomplished, and a vexed question will be settled by the highest earthly authority, and to whose decision all will most cheerfully submit.

Mr. President, if this or some similar proposition be not sent forth to the people, or the article which we have adopted be not stricken out or essentially and materially changed, the constitution on account of that and other objectionable features will be rejected.—*Democrat,* Nov. 28, 1846.

No. 24, "Article on the powers, duties, and restrictions of the legislature," was then read a third time. And the question having been put on the passage of said article, it was decided in the affirmative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 83, negative 14; for the vote see Appendix I, roll call 114].

So the article passed, and the title thereof was agreed to.

No. 10, "Article on constitution and organization of the legislature," was taken up. And the question being on concurring in the three amendments [third amendment] of the committee of the whole thereto, which was to strike out the fourth section thereof, Moses M. Strong moved to amend the amendment by inserting the article reported by the select committee relative to an apportionment of senators and representatives.

A. Hyatt Smith moved that the said article be committed to a committee of nine, with instructions to report a representation on the plan of the law of 1842, on a basis of 21 for senate and 63 for house, and also on a basis of 22 for senate and 66 for house.

Mr. Judd moved to amend the motion by adding as follows: "*Provided,* That each organized county within the territory, except the counties of Richland and Chippewa, shall be entitled to one member in the house of representatives." And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 49, negative 46; for the vote see Appendix I, roll call 115].

Mr. Elmore moved to amend the motion by striking out all between the words "nine" and "provided," which was agreed to.

On motion of Mr. Magone the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

Article No. 10 was then taken up, when Moses M. Strong moved to amend by striking out all after the words "a committee of," and inserting the following words, to wit: "Eleven, with instructions to report an apportionment of senators and representatives among the several counties, based upon population, so that no district shall have a senator or representative upon a population of less than three-fifths of common ratio," and moved a call of the convention, which was seconded, and Messrs. Agry, John M. Babcock, Bevans, Brace, Charles E. Browne, Burt, Cartter, Clark, Coombs, Dunning, Fuller, Hunkins, Mills, Patch, Prentiss, Randall, Geo. B. Smith, and John Y. Smith reported absent.

On motion Messrs. Burt, Coombs, and Mills were excused from their attendance on the convention.

The sergeant at arms not being in attendance, Mr. Ryan moved that the rules be suspended for the consideration of the resolution relative to dispensing with the services of sergeant at arms, which had been laid on the table, which was agreed to.

Mr. Clothier moved that the said resolution be laid upon the table, which was agreed to. And a division having been called for, there were 37 in the affirmative and 15 in the negative.

Moses M. Strong moved that all further proceeding under the call be dispensed with, all the absentees being in attendance except John Y. Smith and Coombs, which was disagreed to. And a division having been called for, there were 26 in the affirmative and 27 in the negative. The sergeant at arms having reported that he was unable to find Messrs. John Y. Smith and Coombs, on motion of Warren Chase all further proceedings under the call were dispensed with.

Mr. Magone moved the previous question, which was not seconded.

The question was then put on the amendment of Moses M. Strong to the motion of A. Hyatt Smith and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 48, negative 54; for the vote see Appendix I, roll call 116].

Mr. Ryan moved that the motion of A. Hyatt Smith be laid upon the table. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 55, negative 45; for the vote see Appendix I, roll call 117].

Moses M. Strong, by leave, withdrew his amendment to the amendment of the committee of the whole.

Mr. Elmore moved that the said bill and amendments be recommitted to the committee of the whole. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 62, negative 35; for the vote see Appendix I, roll call 118].

The convention resolved itself into committee of the whole for the consideration of the said article and amendments, Hiram Barber in the chair. And after some time spent therein the committee rose and by their chairman reported the same back, with a recommendation that the article be referred to a select committee of eleven. The said report was then adopted.

On motion of Mr. Elmore the convention adjourned.

On the Constitution of the Legislature

Moses M. Strong renewed his motion to amend as of yesterday.

Mr. Dennis opposed the motion to amend on the ground that it did not distribute the members according to their population and cited Grant and the counties on the Mississippi as having gained two members of the house and a senator, based on no population.

A. H. Smith moved to refer the whole subject to a committee of nine, with instructions to report a section based on population, on the principle of the laws of 1842 and 1846, by which the representatives of the legislature of the territory have been distributed.

Mr. Judd moved to amend the motion so that the report should give a member to each county. This failed. Ayes, 48; noes, 54.

Mr. Ryan moved to lay the motion on the table, which prevailed.

Mr. Bevans said the delegates from Grant would give up one of the members of the house of representatives that the committee had assigned to that county.

Moses M. Strong said that as gentlemen for whose benefit the compromise had been entered into saw fit to abandon it, he did not think that duty compelled him longer to abide by the proposition; therefore he should abandon it and fall back on the principle of representation based on population. He then withdrew his proposition to amend.

Mr. Lovell moved to amend as propos[ed] by Mr. Strong, except Racine was to have 8 members of the house of representatives and Jefferson 4, while Grant was to have but 4, and Chippewa, St. Croix, and La Pointe but 1.

Mr. Elmore moved that the article be referred to the committee of the whole, which prevailed.

Mr. Tweedy offered an amendment to the fourth section, so that it would provide that the "legislature should be formed on a principle to be provided for in another article."

Mr. Huebschmann offered a substitute for the section, providing that all apportionments shall be made on a basis to be formed by dividing the whole population of the state by the number of members of each house to find the unit of representation, and giving to each county having a unit or three-fifths of a unit one member to that house for such unit or three-fifths of a unit; that a county or counties not having a unit or three-fifths of a unit should be attached to some other contiguous county.

A. H. Smith moved that the committee rise and report, and recommended that the whole subject be referred to a committee of eleven, to report thereon. The motion prevailed, and Messrs. A. H. Smith, Dennis, Madden, Bell, Hicks, Cartter, Parks, N. F. Hyer, Gibson, Goodrich, and Tweedy were appointed the committee.

Long discussions arose on these several motions, in which the convention were occupied to a very late hour in the day, when the convention adjourned.—*Express,* Nov. 24, 1846.

WEDNESDAY, NOVEMBER 18, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

The President announced the appointment of the following committee, to which was referred article No. 10, to wit: Messrs. A. Hyatt Smith, Dennis, Madden, Bell, Hicks, Cartter, Parks, Nathaniel F. Hyer, Gibson, Goodrich, and Tweedy.

Warren Chase moved that leave of absence be granted to Mr. Hazen. Leave was granted.

The President presented the report of the clerk of the district court of the county of Dane which was read and referred to the select committee on that subject.

Petitions were presented and referred as follows: By Mr. Dennis, a petition of citizens of Dodge County asking that the homestead of citizens be exempted from forced sale; by Mr. Burnside, a petition of citizens of Iowa County, on the same subject; by Mr. Huebschmann, a petition of citizens of Milwaukee County, and also a petition of citizens of Washington County, on the same subject, which were severally referred to the committee on miscellaneous provisions.

Mr. Soper introduced the following resolution, which was read, to wit: "*Resolved,* That the member apportioned by the select committee of nine to the county of Grant, and so suddenly flushed from her beautiful prairies by her own delegation, be permitted to settle down and remain in the county of Manitowoc."

The resolution introduced by Mr. Hicks on the fourteenth instant, relative to limiting the quantity of land which any individual may hereafter possess in this state, etc., was taken up, when Mr. Judd moved that the same be laid upon the table, which was agreed to.

The resolution introduced on yesterday by Mr. Moore, relative to holding an evening session of this convention on certain evenings of each week, was taken up and adopted.

The convention then resolved itself into committee of the whole for the consideration of the report of the select committee on articles Nos. 5, 6, and 7, and sundry resolutions, Mr. Judd in the chair. And after some time spent therein, the committee rose and by their chairman reported progress thereon, and asked leave to sit again. Leave was granted.

On motion of Mr. Doty the convention took a recess until two o'clock P. M.

TWO O'CLOCK, P. M.

The convention again resolved itself into committee of the whole for the consideration of the report of the select committee on articles Nos. 5, 6, and 7, and sundry resolutions, Mr. Judd in the chair. And

after some time spent therein, the committee rose and by their chairman reported progress thereon, and asked leave to sit again. Leave was granted.

On motion of Mr. Ryan the convention took a recess until seven o'clock, P. M.

SEVEN O'CLOCK, P. M.

The convention again resolved itself into committee of the whole for the consideration of the report of the select committee on articles Nos. 5, 6, and 7, and sundry resolutions, Mr. Judd in the chair. And after some time spent therein, the committee rose and reported the articles back with amendments.

Mr. Rankin asked that leave of absence be granted to himself. Leave was granted.

On motion of Mr. Huebschmann the convention adjourned.

The convention then resolved itself into committee of the whole on the report of the select committee on the articles on internal improvements, taxation, finance, and public debt, and on corporations other than municipal.

The article on corporations other than municipal was entirely stricken out.

The resolutions reported by the select committee elicited a long discussion which was not ended till the adjournment at noon.

The resolutions as reported by the select committee are as follows:

"*Resolved,* That the legislature shall at its first session pass an act forever refusing the assent of this state to the provisions of an act of Congress entitled 'An Act to grant a quantity of land to the territory of Wisconsin for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock River,' approved the eighteenth of June, 1838, and refusing the grant therein made, and refusing to assume the trusts thereby created.

"*Resolved,* That the state of Wisconsin does hereby refuse to assent to the provisions of an act of Congress entitled 'An Act to grant a certain quantity of land to aid in the improvement of the Fox and Wisconsin rivers, and to connect the same by a canal, in the territory of Wisconsin,' approved the sixth day of August, 1846, and does hereby refuse the grant thereby

made; but does hereby request Congress to pass an act granting the net proceeds of the lands granted by the act last mentioned, when sold by the United States under the laws and regulations of their land offices, to this state, in aid of the work mentioned in the said act, to be paid over to the proper officer of this state from time to time; and in case Congress shall pass such an act, then the funds accruing from such grant are hereby irrevocably pledged to the works mentioned in the said act of the sixth day of August, 1846.

"*Resolved,* That Congress be requested upon the admission of this state into the Union to pass an act whereby the grant of five hundred thousand acres of land, to which this state is entitled by the provisions of an act of Congress entitled 'An Act to appropriate the proceeds of the sales of public lands, and to grant preëmption rights,' approved the fourth day of September, 1841, and also the five per centum of the proceeds of the public lands lying within this state, to which this state shall become entitled on her admission into the Union, by the provisions of an act of Congress entitled 'An Act to enable the people of Wisconsin Territory to form a constitution and state government, and for the admission of such state into the Union,' approved the sixth day of August, 1846, shall be granted to this state for the use of schools instead of the purposes mentioned in that behalf in the said acts of Congress, respectively.

"*Resolved,* That the foregoing resolutions be appended to and signed with the constitution of this state, submitted therewith to the people of this territory, and to the Congress of the United States."

AFTERNOON SESSION

The committee of the whole again took up the resolutions.

Mr. Tweedy presented the following additional resolutions, to follow the first resolution, which were discussed and adopted:

"*Resolved,* That the Congress of the United States be and is hereby requested upon the admission of this state into the Union so to alter the provisions of the act of Congress, ap-

proved June 10, 1838, and so to alter the terms and conditions of the grant made therein that the odd-numbered sections thereby granted and the net proceeds of so much thereof as shall have been sold by the territory of Wisconsin may be held and disposed of by the state as part of the 500,000 acres of land to which the state is entitled by the provisions of an act of Congress entitled 'An Act to appropriate the proceeds of the sale of the public lands and to grant preëmption rights,' approved the fourth day of September, 1841. That the even-numbered sections reserved by Congress may be offered for sale by the United States for the minimum price, and subject to the same right of preëmption to occupants as the public lands of the United States.

"*Resolved,* That, in case the said odd-numbered sections shall be ceded to the state as aforesaid, the same shall be sold by the state, in the same manner, at the same minimum price, and subject to the same right of preëmption to occupants as the public lands of the United States are now sold, and the excess price over and above one dollar and twenty-five cents per acre absolutely or conditionally contracted to be paid by the purchasers of any part of said sections which shall have been sold by the territory of Wisconsin shall be remitted to such purchasers, their representatives, or assigns."

At five o'clock the convention adjourned.

EVENING SESSION

The convention organized by choosing Moses M. Strong as president pro tem, the President being absent.

The resolutions were still under consideration in committee of the whole, Mr. Judd in the chair.

The question was on the motion of Mr. Baird to strike out the second resolution reported by the committee; which, after a long discussion in which Messrs. Baird, Brace, and some others advocated the striking out, and Messrs. W. R. Smith, Doty, and some others opposed it, the motion was carried.

Mr. Doty proposed a substitute which was rejected.

At the close of the evening session the article and the resolutions as amended were reported back to the house.—*Democrat,* Nov. 21, 1846.

CORPORATIONS OTHER THAN MUNICIPAL AND BANKING

(Remarks of N. F. Hyer, in committee of the whole, November 18, 1846)

Mr. President: I understand that when this subject was referred to the select committee, it was for the purpose of providing in the article some provisions by which charters for internal improvements might be passed by the legislature, with such provisions as would induce capitalists to engage in the business. This, sir, I understood from the gentleman from Racine (Mr. Ryan) who was subsequently appointed chairman of this select committee, but, sir, instead of reporting liberal provisions, as was proposed, we have reported back to us the same objectionable features contained in the original report of the standing committee. The fourth section reads as follows:

"The legislature shall have power to incorporate by special act any corporation for special acts of internal improvement; but no such act shall embrace more than one district and special work; and no such act shall take effect until it shall have been passed by two successive legislatures, by a majority of all the members elected to each house, to be ascertained by yeas and nays to be duly entered on the journals of each house, respectively."

My objection is to the last part of the section, requiring the matter to be passed upon by two successive legislatures, and requiring a majority of all the members elected. Now, sir, members of legislative bodies are men, governed by like passions with other men, and among those passions is one called jealousy. Now, sir, it requires no great stretch of imagination to perceive how this passion might be brought about to bear upon a project which all might admit to be not only useful but necessary. We will suppose that it is proposed to incorporate

a company for the construction of a railroad from the lake to the Mississippi; if it is proposed to terminate it at Milwaukee, Racine and Southport would be opposed to it. If at Racine, Milwaukee and Southport would oppose it; and the same passion might govern men through the whole length of the route, and in this way a truly meritorious object might fail to get even a majority of the members present in its favor. And why trammel the subject by requiring its passage through two successive sessions, especially as the least change in the bill during this second ordeal would as effectually kill it as would its entire rejection?

So much for the fourth section.

The seventh section reads as follows:

"All members of every corporation formed under any general or special law shall individually be jointly and severally liable for all debts and liabilities of such corporation, contracted or incurred at any time before they respectively finally ceased to be members of such corporation or during three months thereafter, and no member of any corporation shall be released from such liability by the repeal or dissolution of such corporation."

In making internal improvements, by far the greatest amount of expenditure consists in labor, which is usually paid for every Saturday night; and wherefore the necessity of this section? Suppose a failure—is it not enough that the company lose the whole amount of capital invested? Shall the man who has invested ten thousand dollars be subject to lose a hundred? Again, sir, suppose a man worth one hundred thousand dollars to have invested ten thousand—each individual is by this section made liable for all the debts of the corporation—it may be more convenient to sue the individual than the corporation. What is there to prevent this man from being continually harassed by petty law suits? If men possess the sagacity of men they will not lay themselves thus liable.

No, sir, the principle is very well when applied to bank charters, but is entirely out of place here.

Again, sir, it is very well understood that the lands in the interior are more productive than on the lake shore (owing

doubtless to the influence of the lake winds) and if we can have a market for our produce at home nearly equal to that on the lake shore, then our lands are as valuable as theirs. A judicious system of internal improvements will create that market; then, sir, why should they not be encouraged.

Should the constitution be so formed as in effect to discourage internal improvements, I am prepared to see it rejected and should rather live under our present charter.—*Argus,* Nov. 24, 1846.

THURSDAY, NOVEMBER 19, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Mr. Mills presented the petition of citizens asking that persons who observe the seventh day as the Sabbath be allowed certain privileges, which on his motion was referred to the same committee of the whole which shall have under charge the bill of rights.

Mr. Baker gave notice that he would on some future day move a reconsideration of the vote by which article No. 1 on banks and banking was adopted.

Mr. Bevans, to whom was referred the bill of rights, reported the same back with amendments. The said report was accepted. Mr. Ryan moved that the secretary make a fair copy of the article on a bill of rights, which was agreed to.

Mr. Bevans, from the same committee, made the following report, to wit:

"The committee to whom was referred resolutions Nos. 4 and 5, requiring the committee to report a provision prohibiting members of this convention and others from holding office, beg leave to report the following according to instructions:

"Until the expiration of two years after the adoption of this constitution, no delegate to this convention shall hold any office of trust or profit created by this constitution, nor shall any such delegate, or any or either of the present officers of the territory elected or appointed by the president of the United States or the governor of this territory be elected to the Senate or House of Representatives of the United States until after the expiration of the said term of two years."

A. Hyatt Smith, from the minority of the committee to which was referred the bill of rights, reported No. 29, "Article on exclusion from office."

"The minority of the committee to whom the two resolutions were referred on the subject of exclusion from office report the following sections in obedience to the instructions contained in said resolutions:

"Section —. No delegate to this convention shall hold any office of trust or profit created by this constitution until two years after its adoption by the people.

"Section —. No delegate to this convention nor any person holding an office under the territorial government, whether by election or appointment, shall be elected to the Senate or House of Representatives of the United States until two years after the adoption of this constitution by the people.

"All of which is respectfully submitted,

A. HYATT SMITH
L. BEVANS"

Mr. Bevans, from select committee to whom was referred the bill of rights, reported the same back with verbal amendments and recommended the adoption of three new sections.

A. H. Smith presented a minority report of same committee, saying it would be recollected that there were two resolutions referred to the committee, one excluding the delegates in this convention from office for two years after the adoption of this constitution, which this convention had a perfect right to do, the other excluding also all now holding office in the territory, which he conceived this convention had no right to do. Hence, as a minority of the committee, he would report the two subjects in two separate articles instead of one, as in the majority report.

Mr. Baker moved to postpone the consideration of the whole matter to the fourth of July next, which was afterwards withdrawn.—*Express,* Nov. 24, 1846.

Mr. Steele, from the committee on miscellaneous provisions, made the following report, to wit:

"The committee on miscellaneous provisions, to whom was referred the petition of Z. Eddy and three others, report that the matter therein mentioned has been before this committee for their consideration some time previous hereto, and that they have reported in accordance with the request of the petitioners."

Mr. James introduced the following resolution, which was read, to wit: "*Resolved,* That it is not necessary for this convention to pass any resolution disfranchising its members from holding offices for the next two years, as the people of this territory will be sure to attend to that matter themselves."

The resolution introduced on yesterday by Mr. Soper, relative to an apportionment of members of the house of representatives, was taken up, when Mr. Soper, by leave, withdrew the same.

The report of the committee of the whole on articles Nos. 5, 6, and 7, and sundry resolutions was then taken up.

And the question being on concurring in the amendments of the committee of the whole thereto, and a division of the question having been called for, Mr. Judd moved to amend the first amendment of the committee of the whole, which was to strike out the first section of the article on taxation, finance, and public debt, by inserting as follows, to wit: "Section 1. All taxes to be levied in this state at any time shall be as nearly equal as may be." And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 47, negative 46; for the vote see Appendix I, roll call 119]. The question was then put on adopting the amendment as amended, and was

decided in the affirmative. The ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 56, negative 43; for the vote see Appendix I, roll call 120].

Mr. Mills moved to amend the second amendment of the committee of the whole, as follows, to wit: "Insert as section second, 'All property belonging to this state or to the United States; all public school lands and all property belonging to any school or institution of learning, supported in whole or in part by any public school fund or tax; and all public burying grounds shall be free from taxation.'" And the question having been put, it was decided in the negative.

The second amendment of the committee of the whole was then concurred in.

And the question having been put on concurring in the third amendment of the committee of the whole, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 53, negative 43; for the vote see Appendix I, roll call 121].

Mr. Ryan moved a call of the house, which was ordered, and Messrs. Burt, Coombs, Dickinson, Elmore, Gilmore, Kern, and John Y. Smith reported absent. On motion, Messrs. Coombs, Burt, and Kern were excused from their attendance.

Mr. Magone moved that all further proceedings under the call be dispensed with, which was disagreed to. And a division having been called for, there were 28 in the affirmative, negative not counted.

Mr. Judd moved that all further proceedings under the call be dispensed with, several of the absentees having appeared in their seats, which was agreed to.

Mr. Magone called for the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 67, negative 34; for the vote see Appendix I, roll call 122].

The question was then put on concurring in the fourth amendment of the committee of the whole, which was to strike out the article on corporations other than municipal, and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 53, negative 49; for the vote see Appendix I, roll call 123].

The question was then put on concurring in the fifth amendment of the committee of the whole and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 92, negative 8; for the vote see Appendix I, roll call 124].

The question was then put on concurring in the sixth amendment of the committee of the whole and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 73, negative 26; for the vote see Appendix I, roll call 125].

By unanimous consent of the convention the seventh section of the article on taxation, finance, and the public debt was amended by inserting the word "levying" after the word "for" in the third line.

Mr. Tweedy moved that the vote ordering the main question to be put be reconsidered.

Mr. Tweedy was in favor of the bill in general, but could not vote for the third resolution, and therefore moved to recommit with instructions to strike out the third resolution.

Marshall M. Strong was opposed. Members could not hope to get in all their particular notions. He hoped members would not consent to go through with the whole matter again.

Mr. Tweedy had found an easier way to get at the matter and withdrew his motion to recommit.—*Express,* Nov. 24, 1846.

The President decided that the motion was not in order, the previous question having been ordered, and this not being a privileged question.

Moses M. Strong appealed from the decision of the President and moved that the rules be suspended to allow the question of order to be discussed. And the question having been put, it was decided in the negative, two-thirds not voting therefor. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 56, negative 43; for the vote see Appendix I, roll call 126].

And the question having been put, "Shall the decision of the President stand as the judgment of the convention?" it was decided in the affirmative. And a decision having been called for, there were 51 in the affirmative and 26 in the negative.

The question was then put on ordering the said article to be engrossed for a third reading, and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 66, negative 32; for the vote see Appendix I, roll call 127].

On motion of Marshall M. Strong the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

Mr. Dennis asked that leave of absence be granted to Mr. Clark. Leave was granted.

Articles Nos. 26, 11, 3, and 17 were taken up, when Mr. Holcombe moved that the further consideration of the said articles be postponed for one week, which was agreed to. And a division having been called for and ordered, there were 35 in the affirmative and 21 in the negative.

Mr. Hicks, by leave, introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on revision and adjust-

ment be instructed to substitute in place of number one on banks and banking the following as an article of the constitution:

"'The legislature shall have no power to pass special charters for any kind of banking purposes whatever. But a majority of all members of either house with the ayes and noes recorded on the final passage may pass general laws of association for such purposes, the stockholders to be made individually responsible for their respective shares of all liabilities of the association. The aggregate amount of issues to be limited, with ample security for its redemption. A registry of all debts to be required, and bill holders to have preference in payment in case of insolvency.'"

The convention then resolved itself into committee of the whole for the consideration of No. 13, "Article on the organization and functions of the judiciary," Wm. R. Smith in the chair. And after some time spent therein the committee rose and by their chairman reported progress thereon, and asked leave to sit again. Leave was granted.

Mr. Clothier asked that leave of absence be granted to himself. Leave was granted.

On motion of Mr. Ryan the convention adjourned.

Organization and Functions of the Judiciary

Mr. Magone moved to strike out, in the first paragraph of section 1, all after the word "senate," which was carried, thus excluding the judges from court for trial for impeachments.

Mr. Judd moved to strike out all after the word "courts" in the third line of section 2, which provided for organization of special courts of chancery. Carried.

Mr. Ryan moved to strike out provision for municipal courts.

Mr. Tweedy could not agree with the gentleman. He did not doubt this time; he knew. Cities must have separate police courts for speedy trial of petty criminal cases; and especially would these municipal courts be indispensable, as there is no provision made in this article for inferior courts. Cities must have many more petty criminal cases than the country and they ought to bear the expense. It is not fair to put this expense upon the county at large. Since, then, cities have more petty cases, and can settle them more speedily and with less expense, why not let them have them? There can be no danger.

Mr. Ryan spoke from experience. He had seen these courts tried at Chicago and at Alton, till the people petitioned en

masse for their abolition. He would go as far as any man for speedy justice, but he would not go for unequal. He said that municipal courts gave the city creditor the advantage over the county creditor, who could not be constantly on the watch, as the city creditor could, to take advantage of the speedy judgments of the municipal courts.

Mr. Tweedy said there could be no danger in this proposition. There is no fear the legislature will confer on these courts improper powers. If they were found objectionable in any case, the legislature could abolish them, as in the cases the gentleman himself (Mr. Ryan) had quoted. Certainly we should not deprive them of the power.

Mr. Crawford thought that if his unfortunate resolution (abolition of laws for the collection of debts) had passed, it would have saved all these speeches.

The motion to strike out was lost.

G. B. Smith moved to strike out the whole of section 2 and insert the first section in the article of the minority report, which was lost.

Mr. Brace moved to strike out that part of the section making judges elective by the people and insert, "making them appointed by the governor and senate," which was afterwards withdrawn on suggestion of Mr. Ryan and several others that it would be better to settle the general system before getting snarled in debate on that question.

J. A. Barber moved to strike out the whole of the fourth section and insert a section making the judges of the circuit court also judges of the supreme court. He thought that judges who should be in business through the year would be better than those who should sit in idleness two-thirds of the time. He also thought it would be more economical to have five than eight judges.

Mr. Ryan believed that the better way was that the supreme judges be also the circuit court. The separate supreme bench has a tendency to make "parchment lawyers." He thought that a judge's legal knowledge should be concurrent with his practical. He did not believe that under this system the supreme judge would earn his pay—he believed in paying work,

not dignity. This system, too, would be creating a useless number of officers. He had thought much on the subject, and in his judgment five judges were enough for a population of 250,000—he believed that they could do the work and do it well. He instanced New York—she had tried both systems. Under the system which the amendment proposes, she had produced the best set of common law reports the country has, Johnson's. His reports are standard for every man of the profession. She changed her system, and what have we? Cowen and Wendell, and from them growing worse and worse from day to day. The only objection he had heard urged against the system of the amendment was the danger of logrolling among the judges. That will be an argument if we propose having poor judges, but good judges are never afraid to review their decisions and to correct them if wrong. If we are not to have poor judges, by all means let us have the system which has received the sanction of time in the New World and the Old.

Marshall M. Strong was pleased at the candor with which this subject was approached; it argued well for the final settlement. He believed that a good judiciary system depended on four things: mode of appointment, tenure of office, pay, and the amendment now under consideration. He said of New York that the recent convention had with hardly a dissenting voice returned to the old system. He called attention to the system adopted by the United States courts and said that this system had been in operation in England for one hundred years. His two main reasons in favor of the system of the amendment were: First, the supreme judge needs the practical knowledge he can acquire by sitting at nisi prius. Second, the circuit judge needs the legal learning and time for research he can acquire by sitting on the supreme bench. The matter of expense was another reason. The sudden increase from three to eight judges would appear like desire for creating offices. He said it is true our experience in this territory has been unfortunate; but gentlemen must not make their opinion from one case only—should look over the whole ground, listen to the opinions of Story, and the experience of the best.

Mr. Baird was on the committee who reported the article; was one who supported the separate supreme court. He came here fully convinced that that was essential; but he would confess that his opinions had been somewhat shaken. Still he would give what were his views. His main objection to the proposed amendment was that already mentioned, the danger of logrolling. He felt that that was a danger. No gentleman who had had to do with the courts of this territory could doubt it. He would appeal to every lawyer, and to the reported decisions of our court. He did not believe five judges enough; called attention to the surprising increase of population; said we were making a system not for now merely, but also for the future. It is not a fact that three judges are sufficient for the business now. They do not have time. The judge gets in town just in time to take his seat on the bench Monday morning, and leaves as soon as the week is up. They do not do the business. Expense is but a small consideration compared with a good system.

Mr. Tweedy considered this a most important subject, or he would not trouble the convention with any remarks. He had a deep conviction on the subject of this amendment; he fully concurred in all that had been said in its favor; was more confirmed in his opinions every day. He knew of several lawyers in Milwaukee who had been opposed to the principle of this amendment, but had since been convinced and abandoned their opposition. In committee the question had stood 4 to 4; the Chair gave the casting vote for the proposition of the bill, but was not very strenuous in its favor—cannot be more so now. He said that he could do but little more than give his assent to the arguments already presented. One thing he considered as settled—that judges who try issues of fact in circuit court, other things being equal, became the most able men. The cases are five to one both in England and in this country. It is the tendency of the thing. When a judge comes in contact with people of all kinds, dispositions, and feelings, it is the trial and discipline for making a good judge. Much legal learning alone is not enough; without knowledge to apply it to men and things, it is only an encumbrance. There is no substitute for this prac-

tical knowledge. He said we are to arrange this thing for our present state; if we were in New York where we had multitudes of men already trained in this practical part perhaps we might without danger adopt the principle of the bill. That is the only reason it has worked as well as it has in the older states. They had old men with experience; and he had no doubt these same men would have been better if they had had nisi prius experience. Story (if we may believe his eulogist, Chas. Sumner) the ablest jurist of the age, pronounced his decided opinion in favor of the system and deprecated the time when the policy of the United States courts should be changed. It is the system of the older states, the system under which he had always lived, and he had never heard it complained of except in Wisconsin. Men do not become profound without experience and great labor; and men do not do this labor, do not get this experience, without necessity; and what necessity is there for a supreme judge to make any effort? We all know how easy it is for him to shift all labor from his shoulders. He does not come before the public; he is only known by the profession, by his brethren on the bench; only has to agree to decisions made; need not make one; may go on to the bench a dunce and go off a dunce, and nobody knows it unless the profession tell them. But if he comes before the people in trials of fact, every man must stand or fall on his own merits. The whole people will know his ability so that, certainly, if the elective method is adopted, this one thing is sufficient to overbalance all objections. He was almost tempted to repeat what had been said of the necessity that the judge have practice at nisi prius. Does not every man know that there can be no improvement without practice? It has been well said by Spencer—"The judgeship is a profession." He must improve in his profession, and that improvement must be made at nisi prius. Sherman, the best jurist of Connecticut, said he knew nothing of law till he came to the bar. True, he had been where the law was, among the books.

Why, what is the business of the judge in court of error, and of the attorney? It is to picture to the imagination the precise state of the trial below—all the facts and circumstances.

How can this be done—how can the judge make this conception unless he has been in practice below? Unless we have judges backed by thirty years' experience, we must have a miserable bench, if they are to be deprived of practice at nisi prius. How is it that an old judge on the supreme bench so often fails and sinks till the whole profession wish him out of the way as an incubus? Because he gives up the work; he is not made to labor. A judge must not rust out; he must labor at nisi prius. There he gets the benefit of the opinions of the best lawyers. He (Mr. Tweedy) much doubted whether Chancellor Kent, great as he is, would not say that the lawyers who practiced before him made him the great jurist he is. He could not bear the idea of taking such timber as we have in this territory to put on the supreme bench; but let them go on the circuit, and they would make good judges in three years.

He confessed that our own experience in this territory has been bad; but he conceived that if these three judges had been appointed with sole reference to their fitness, and had been responsible to the people here instead of being sent from a distance, there would not have been that difficulty. We are to have five in number, appointed or elected by us, responsible to us, watched by us—by the people and the bar.

He thought the gentleman from Brown (Mr. Baird) had not touched the system by his objection. Possibly in time five might be too small a number; but they could be easily increased. Now, five are enough.

The committee then rose, reported, and asked leave to sit again.

The convention then adjourned.—*Express,* Nov. 24, 1846.

Organization and Functions of the Judiciary

The convention in committee of the whole took up the article on this subject, Wm. R. Smith in the chair, when Mr. Magone moved to amend the first section by striking out from the first sentence all after "senate," which prevailed. The sentence read thus, "The court for the trial of impeachments shall be composed of the senate and the judges of the supreme court or a major part of them."

Mr. Judd moved to strike out all that part of section 2 which authorized the legislature to establish a court of chancery in the state; and said that in his opinion a court of chancery not connected with a law court was the worst court that ever was or could be established, for delay, vexation, and abuse. The motion prevailed.

Mr. Ryan moved to strike out so much of the same section as authorized the legislature to establish municipal courts; and said that he did not know of any good reason for the establishment of these courts, but chose rather to let all the people of the state resort to the same tribunals, believing these afforded ample protection.

Mr. Tweedy said that it was a great matter of convenience for the inhabitants of the cities to have police courts for the speedy trial of petty offenses. The necessity of such courts had manifested itself to nearly every state of the Union, and they had provided for and established them. He had no hesitancy in saying that with only the ordinary courts no vigorous system of police could ever be carried out in the cities. More petty offenses are committed in cities than among the same number of people in the country, and in addition to the consideration that there should be a speedy trial given to such cases, the county ought not to be burdened with the expenses of them as it would be under the ordinary courts.

G. B. Smith was in favor of the amendment proposed, and if it did not prevail, he should move to amend the section by substituting the first section of the report of the minority for this.

Mr. Ryan remarked that his experience on the subject of municipal courts had not been favorable to their establishment. The inhabitants of Chicago and Alton, where he had resided, had such courts established among them, and they had petitioned the legislature to take the same away.

Mr. Magone hoped that Milwaukee at least would be allowed to retain her municipal courts. They might not be needed for the present population of the city, but he feared that they would be needed if the gentleman who had wandered over so much of the west should be permitted to come that way.

The motion to strike out was lost.

G. B. Smith moved to substitute the first section of the minority report for the report under consideration; the amendment reads as follows:

"The judicial power of this state both as to matters of law and equity shall be vested in a supreme and district court for each county, in justices of the peace, and in such other courts as the legislature may from time to time establish."

He preferred this section to the one reported by the majority because it gave to each county a supreme and district court, and thus brought the courts into every county, to the very homes of the people, where all could have access to them. All the reason he had ever heard against such a course was that there was some inconvenience attending it. The system had been found to act well in Ohio. It will keep the judges of the supreme court employed.

The motion to amend was lost, and the Chair read the fourth section providing for a supreme court of one chief justice and two associates, two of whom should form a quorum, who should be elected by the whole state.

J. A. Barber moved to strike out the section and insert a new section providing that the circuit judges shall hold the supreme court and that the judge who tried the cause below should not sit on the hearing in the supreme court.

Mr. Baker said that amendment now offered would test the sense of the committee on the question of there being two separate courts, or but one, and he hoped the effect of the amendment would be understood.

Mr. Brace moved to amend the section by striking out so much as related to the election of the judges and provided for their appointment by the governor and senate.

Marshall M. Strong said he hoped this motion would be understood; it involved the question of an election or an appointed judiciary.

Mr. Tweedy remarked that he was in favor of the amendment and intended at some future time to give his reasons for preferring it to the method by election.

Mr. Ryan confessed his preference to the appointing method, and would if he had an opportunity give his reasons for that

method, but at present he hoped the question would not be raised nor discussed, but that the committee would perfect all the other parts of the bill, leaving that an open question for future action. Mr. Brace withdrew his motion, and Mr. Ryan continued that he should act on this bill as if that question had been settled to his entire satisfaction, with no other intent than to perfect it with the elective principle prevailing. He was in favor of the amendment of J. A. Barber as a better system than the one reported by the committee. It was better for the judges themselves as it placed them among the people, making them practical men rather than dry parchment lawyers, knitted to schemes and old sayings of one or two hundred years ago; by giving the judge active duties that will occupy him nearly all the time it prevents him from becoming lazy and indolent. The supreme judges are not needed to the people, because the duties required of them can be performed just as well and better by the circuit judges, and it would add the expenses of paying them to the other expenses of the courts. It would be better to give the amount required to pay them to the other judges than to establish this separate bench. He had no doubt but that about five judges could do all the business of the courts, and do it up right. New York furnished an example of a state which had a supreme court, the judges of which held the circuit courts, and he ventured nothing in saying that the reports of causes made at that time and reported by Johnson were second to none of the last one hundred years. The judges of that time were sound practical men, who mingled with men, and understood the business transactions; when the state determined to constitute a separate bench the character of the reports began at once to deteriorate in value; they lost their sound practical good sense and became almost useless as books of authority out of the state; and the judges became impracticable, pettyfoggying, learned dunces. An able and strong-minded judge will never hesitate to review his own decision and to correct any error he may have made at the trial of the cause below; but it is not the case of a small man with small mind, a man who never ought to sit on the bench. He did not believe that Wis-

consin was to have such judges, but that she was to have good judges placed on her bench.

Marshall M. Strong did not mean to repeat what had been said by his colleague (Mr. Ryan) but wished to add thereto some of the reasons that induced him to prefer the amendment now proposed to the original section. He esteemed the amendment a highly important one both for the judge and for the people. If the circuit judge should never sit on the supreme bench, but be always engaged in the trial of causes, he would have no time or opportunity of having the principles of the law fully argued and settled in his mind; and of not less advantage to the judge was the knowledge of law to circuit than was the knowledge of business to the supreme judge. The people of the state of New York have seen the error of changing their system of a separate bench, and at the late convention there was an almost entire unanimity of opinion on this subject, and the old system has been restored. It is the system of the courts of the United States, and he had never heard any ground of complaint in relation to its operation. So it was in England, and her courts for the last one hundred and fifty years had remained pure and stood as the bulwarks of liberty, the boast and pride of the nation. Experience of America and England should have its weight on the question; true it will be said that our experience had been found to favor the amendment, that the judges of the territory of Wisconsin have not been found always acting on this high principle of adding experience to learning, a desire to act right without any regard to who made the decision. This he thought would be prevented by the elective principle, since a dishonest judge being brought in immediate contact with the people cannot expect a reëlection, should he ever be caught at logrolling through the supreme court by a decision contrary to the settled principles of law. Lawyers are not like politicians; a change of opinion is not considered an unpardonable offense, but they changing their opinion on various questions every day, being convinced on authorities or arguments of others that they were in error. That the system proposed by the amendment is the best that can be devised has been admitted by the ablest men and best judges that have ever sat on the bench.

Mr. Baird had come here strongly prepossessed in favor of separating the supreme court from the circuit, as being the better way to obtain a faithful administration of the laws, and without which no good government could exist; though he had been of that opinion, yet he was willing to concede after what he had heard from gentlemen who had thought different from him that he began to doubt whether it would be best to divide them, and could some objections he could name be removed from his mind he would give his assent and support to the amendment. He believed the experience of this territory had been such as to convince him and the people generally that a system of logrolling had existed among the judges to sustain each other's opinions, right or wrong. It might not be so, but that was the general opinion of the bar, and the decisions of the court gave ample grounds to sustain the belief. If he could be convinced that this system will not be continued, he could then lend to the amendment his support.

Another objection he would mention to the system was the impossibility of five judges performing the duties of the circuit and supreme courts. Under the present system many of the counties had suffered materially for the want of time or willingness on the part of the judge to do up the business of the court. This had been particularly the case with Brown County. If three judges have not been enough to perform the business thus far, he could not believe that five would be able to do it for the next ten years. The increase of population has been beyond all calculation. When those who professed to know the most set down the amount at 100,000, and for that estimate were set down as visionaries, the census was taken and the report took the whole territory by surprise. What is to prevent the same increase for the next ten years? There is still much land unimproved, and more still in the hands of the Indians and which will probably be treated for in the course of the ensuing year, and the day is not far distant when it will be all filled up with inhabitants, formed into counties, and require courts. Gentlemen should remember that the constitution is not for the present state of the population, but an eye should be had to the future, when these new counties shall be filled up. Therefore if

HENRY S. BAIRD

From an oil portrait in the Wisconsin Historical Library

five judges should even be able to do the work now, they will not be able to do it for any length of time.

Mr. Tweedy agreed fully in all that had been said by the two gentlemen from Racine in relation to the effect of the labor of trying causes and revising the decisions on the supreme bench upon the mind of the judge. He was also in favor of bringing the judge in contact with the people, that he might keep pace with business, and that they might become acquainted with him. But place a man on the supreme bench and he may sit there for years a perfect dummy, never deciding a cause; if his brethren impose the burden upon him, he will evade the point of issue and decide on some immaterial one. Of such a man the people can know nothing. Not so when the judge holds the circuit court—then and there the people will be able to judge of the capacity of the man for a judge. Wisconsin might have such judges unless the amendment should be adopted. This argument had more weight in his mind than any other to make him favor the amendment and the system it proposed.

Another thing should be considered by gentlemen—our judges were to be young men, because there were not among us men of age and judicial experience, as there are in some of the states. Could gentlemen name the man they would place on the bench to sit in final judgment on a case without further experience and practice? J. C. Spencer says that the business of a judge is a profession; and he had often heard Sherman say that he knew nothing of law until he began to practice. So the judge wants the practice to make him perfect, and this can be obtained only in the trial of causes. Very few of the many cases tried and points of law decided at the trial are carried up to the supreme court; and what do go up must be repictured to the court that they may have a correct understanding of it, and the mind be able to receive the impression. How can this be done when the judge has no idea of what occurred at the trial of the cause? Unless there was a probability of placing on the bench men of thirty or forty years' legal experience, the supreme and circuit courts ought most certainly to be the same. Nor is it safe even then, for an active mind—and no other could acquire the necessary knowledge—might, if placed in an inactive position, be-

come inbecile and weak and thus be unfitted for the duties of a judge. So a judge must work—work all the time or he will rust.

In his opinion, if the judges that had been here had been able men rather than political beneficiaries, if they had been accountable to the people of Wisconsin, there would have been no cause of complaint of their having logrolled their decisions. Such a complaint has not been heard of in other places. In reply to the argument of the gentleman from Brown (Mr. Baird) that five judges could not do the labor that would be required, he would say that the article could provide for additional judges whenever the legislature should see fit.

The committee rose and the convention adjourned.—*Argus*, Nov. 24, 1846.

FRIDAY, NOVEMBER 20, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read and corrected.

Leave of absence was asked for and granted, as follows: By Mr. Janssen for Mr. Kern; by Mr. White for Mr. James.

The President presented the report of the clerk of the district court of the county of Jefferson, which was read and referred to the select committee on that subject.

Moses M. Strong presented the account of Shields & Sneden for crape for the use of the convention.

Mr. Magone presented the account of Mr. Helfenstein for plank furnished the superintendent to fit up the hall.

The said accounts were severally referred to the committee on expenses.

Mr. Ryan introduced the following resolution, which was read, to wit: "*Resolved,* That the state of Wisconsin does hereby assent to the provisions of an act of Congress, entitled 'An Act to grant a certain quantity of land to aid in the improvement of the Fox and Wisconsin rivers, and to connect the same by a canal in the territory of Wisconsin,' approved the sixth day of August, 1846, and does hereby accept the grant thereby made in aid of the works therein mentioned, *Provided,* and upon the express condition, That the said act of Congress shall not be so construed as to impose any obligation on the part of this state to expend any funds in the works mentioned in the said act of Congress other than the net proceeds of the lands granted by the said act in aid of the said works, and shall not be so construed as to impose any liability on this state, in any contingency, to refund to the United States any of the proceeds of the said lands which shall have been expended by this state on the said works."

Mr. Judd gave notice that he would on some future day move to reconsider the vote by which the report of the select committee on articles Nos. 5, 6, and 7, and sundry resolutions was ordered to be engrossed for its third reading.

The resolution introduced on yesterday by Mr. James, relative to disfranchising the members of this convention, was taken up, when Mr. Ryan moved that the consideration of the same be postponed until the day of the next general election.

Mr. Hunkins moved that the same be laid upon the table, which was agreed to.

The resolution introduced by Mr. Hicks on yesterday, relative to banks, was taken up, when Warren Chase moved that the consideration of the said resolution be indefinitely postponed. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirm-

ative were [affirmative 76, negative 17; for the vote see Appendix I, roll call 128].

Mr. Hicks moved that the vote on the passage of No. 1, "Article on banks and banking," be reconsidered, when Moses M. Strong moved a call of the convention, which was ordered, and Messrs. Agry, Beall, Burt, Coombs, Coxe, Granger, Hays, Pierce, Prentiss, and Vineyard [were] reported absent. The sergeant at arms was sent for the absentees. On motion, Messrs. Burt and Coombs were excused from their attendance.

Pending the report of the sergeant at arms, Mr. Elmore moved that the rules be suspended in order to present a petition, which was agreed to. Mr. Elmore then presented a petition of Geo. Whitemore and 77 others against any banking system.

The sergeant at arms reported the absentees all in attendance. Moses M. Strong moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 64, negative 42; for the vote see Appendix I, roll call 129].

The question then recurred on the motion of Mr. Hicks. And having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 53, negative 53. For the vote see Appendix I, roll call 130].

The resolution offered yesterday by Mr. Hicks on the subject of banks and banking coming up during the morning hour, W. Chase moved to postpone the same indefinitely.

Mr. Hicks asked and obtained leave to amend his resolution so as to strike out the instructions to the committee, and he said that then the case presented to the convention was a naked proposition for a free banking system. He had heard much said in relation to the change of feeling among the people and members of the convention on this subject, and he desired to see who would crawfish, and would content himself with a call of the ayes and noes.

W. Chase was prepared to vote on the article, at this or any other time. If there was to be crawfishing, he preferred to have it directly on the article itself. On that the votes of the convention had been recorded. [Roll call No. 128 follows.]

Mr. Hicks then rose and said that he should now move to reconsider the vote by which the article on banks and banking was passed. He had been induced to delay making the

motion at the instance of several members of the convention, and particularly of members from Milwaukee and Waukesha counties, nearly all of whom had been home among their constituents, and coming back here without saying a word to him in relation to the subject one of them introduced a resolution to defeat the article, and another, from Walworth (Mr. Baker) gives notice of a motion to reconsider this vote. He said that no other man was to be permitted to steal his thunder—if it was worth anything to another, it was worth the same to himself, and he should claim it all.

Moses M. Strong obtained the floor, called for the previous question, and had a call of the house.

During the call Mr. Elmore procured the leave of the convention and presented a petition of 77 inhabitants of Waukesha County, asking a clause in the constitution to prohibit banks from being established and bank paper from circulating.

The main question was ordered—ayes 64, noes 42.—*Argus*, Nov. 24, 1846.

Mr. Hicks amended his resolution presented yesterday by striking out the instructing.

Warren Chase moved the indefinite postponement—he would vote for reconsidering the real bank article—he wanted the crawfishing done on that, if at all, fairly and openly.

Mr. Judd would vote for reconsidering the bank article, but should vote for this postponement.

The question was taken and the resolution postponed by ayes 76, noes 17.

Mr. Hicks then moved the reconsideration of the bank article as he had given previous notice. After giving that notice he had been requested to delay and particularly by gentlemen from Waukesha. He had delayed—those gentlemen had been home, and had returned. They hadn't said a word to him, but seemed trying to steal his thunder. The gentleman from Walworth (Mr. Baker) had also made an effort that way. Now it was thunder, not capital, he thought of making out of this, and he didn't like gentlemen to rob him.

Moses M. Strong saw the disposition to try this over again. For his part he was ready and moved the previous question and call of the house. Ordered.

Mr. Elmore by leave, pending the call of the house, offered a petition against banks and bank paper.

Mr. Randall wished to amend the petition so as to make it come from citizens of Mukwonago.

Mr. Burchard knew that there were not one hundred men in Waukesha County that would sign such a petition.

The sergeant at arms reported all present, and the main question was ordered to be now put and was decided in the affirmative—ayes 64, noes 42.

The motion to reconsider the vote on the bank article was then lost by the following vote. [Roll call No. 130.]—*Express* Nov. 24, 1846.

Mr. Agry asked that leave of absence be granted him for one day. Leave was granted.

Mr. Burchard moved that the convention take a recess until two o'clock P. M. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 49, negative 44; for the vote see Appendix I, roll call 131].

The President having announced that there was a tie [roll call No. 130], Mr. Ryan asked—Does not that tie up the bank article?

Mr. Tweedy—Yes, and it ties the constitution by the people.

The President—I am of the opinion that it is a clincher.

Mr. Baker rose and said that judging from the feeling manifested among some members of the convention he did not believe they were in a condition to enter upon the discussion of the article on the judiciary at that time. He therefore moved to adjourn to two o'clock P. M.

Mr. Magone moved to adjourn sine die. Lost.

The convention adjourned till two o'clock.—*Argus,* Nov. 24, 1846.

Mr. Burchard moved to adjourn till two o'clock.

Mr. Magone thought they might as well adjourn sine die.

Motion to adjourn was carried—ayes 49, noes 44.—*Express,* Nov. 24, 1846.

TWO O'CLOCK, P. M.

Moses M. Strong moved that leave of absence be granted himself. Leave was granted.

AFTERNOON SESSION

Mr. Magone moved to adjourn to the eighteenth day of December, 1919. In support of his motion he said that the main object he had in offering this motion was that he had no idea that this convention could possibly frame a constitution which would be adopted by the people of Wisconsin; therefore, he thought it better for the convention to dissolve and go home than to stay here spending the money of the people. The convention of Milwaukee, which put him and other members from that county in nomination, had passed some resolutions on this subject, which he would read:

"*Resolved,* That we hold the general principles to be cardinal and indispensably requisite in a democratic constitution, to wit: Freedom of speech, freedom of suffrage, freedom from all distinction on account of religion or birth, equal taxation, equal distribution of educational funds, and humane provisions for unfortunate debtors; also an absolute prohibition upon the legislative power against creating debts, chartering banks, or granting money or lands to aid or favor any religious sect, institution, or church.

"*Resolved,* That as a general principle all officers ought to be made elective by the people; but we confidently leave it to the wisdom and discretion of the convention to adopt such measures as may be necessary in their judgment to secure an honest, able, impartial, and permanent judiciary."

Mr. Magone said that he had endorsed the whole of the doctrines of the resolutions he had read. He was opposed to the chartering of banks and would place a prohibition in the constitution; but he was not in favor of prohibiting the circulation of the notes of the banks of other states. The article, as it now stands, will not meet the approbation of the people and would, as he believed, defeat the adoption of the constitution; but that objection does not lie against that portion which pro-

hibits the incorporation of banks but it was to this principle of legislation. There is not a majority of this convention, even, in favor of this article; the vote just taken shows that there has been a tie. On a late visit to Milwaukee he did not find a man who was not opposed to the article, and the only way he could conciliate the objectors was by assuring them that the article would be amended so as to meet the views of the people. There was one man in Milwaukee, who had influence in that county, who said he should use that influence against the constitution unless this objection could be removed. Every man who had visited his constituents conceded that the people were opposed to the prohibition, except the gentleman from Racine (Mr. Ryan). He was a man whom few men would willingly dispute with. Of him he would say that at the time the bank article was presented he had doubts whether the gentleman was sincere; but he now believed he was then and now is a monomaniac on that subject.

Mr. Ryan asked Mr. Magone if he was sure that the day was Sunday. Mr. Magone said it was not according to his calculation, but as he had now accomplished all he desired he would withdraw the motion.—*Democrat,* Nov. 28, 1846.

AFTERNOON SESSION

Mr. Magone moved to adjourn to the nineteenth day of December, 1919. In support of this motion he said that the main object he had in offering this motion was that he had no idea that this convention could possibly frame a constitution which would be adopted by the people of Wisconsin; therefore he thought it better for the convention to dissolve and go home than to stay here spending the money of the people. The convention of Milwaukee which put him and other members from that county in nomination had passed some resolutions on this subject, which he would read. Mr. Magone then read two of the resolutions alluded to and said that he endorsed the whole of the doctrines of the resolutions he had read. He finally withdrew his motion.—*Argus,* Nov. 24, 1846.

The convention then resolved itself into committee of the whole for the further consideration of No. 13, "Article on the organization and

functions of the judiciary," Mr. Hackett in the chair. And after some time spent therein the committee rose and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

The article on the judiciary was then taken up in committee of the whole, when Messrs. Baker, G. B. Smith, W. R. Smith, and Judd spoke in favor of the organization of a separate supreme court, and were replied to by Mr. Ryan, after which the convention adjourned.—*Argus,* Nov. 24, 1846.

On the Judiciary

Mr. J. A. Barber again offered his amendment, which had fallen with the rise of the committee yesterday.

Mr. Baker was sorry for the scene of this morning. He thought it argued badly for the result of this question, but still he hoped gentlemen would examine this subject fairly and coolly. He said that in the committee he had considered on this matter, but he considered some other things of more importance than the nisi prius system, and that this system would interfere with these. This consideration decided him. One of these considerations which he considered paramount was that the state should be divided into districts, with a judge for each, that the circuit court should be held in each district twice a year, and the supreme court once in each district. One bench could not attend to all these duties, he thought. It would be too much manual labor. Besides, our population will shortly double. He thought that, though the supreme judges might not be kept employed all the time at the beginning, still for the first two years there would be laws to revise, which the supreme judges would undoubtedly be the men to do. He thought that reading, research, and study made the lawyer, and that he who sat on the supreme bench for a length of time would be the better lawyer than he who sat at bar.

Geo. B. Smith didn't propose to make any remarks, but he had his opinions and his reasons. He believed in the necessity of the practice to be gained in circuit courts; and he also believed in the necessity of a separate supreme bench; for this

reason he had submitted the article to be found in the minority report of "Mr. O'Connor and myself!"

W. R. Smith thought by the system of this amendment, in place of progressing and keeping up with the wants of the people at this time, we were falling back on the old system given us by the United States. He thought that changing this article would spoil the idea of the whole bill.

After some further discussion the committee rose, and the convention adjourned.—*Express,* Nov. 24, 1846.

Mr. Rogan asked that leave of absence be granted himself until Monday next. Leave was granted.

Mr. Ryan moved that the convention take a recess until seven o'clock P. M., which was disagreed to.

Mr. Magone moved that the convention adjourn until nine o'clock tomorrow morning, which was agreed to. So the convention adjourned.

SATURDAY, NOVEMBER 21, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Mr. Magone introduced the following resolution, to wit: "*Resolved,* That no member shall be permitted to speak or occupy the floor more than fifteen minutes whilst the convention is in committee of the whole, nor more than once to the same question until every other member desiring to speak shall have been heard."

Mr. Tweedy moved that the rules be suspended for the consideration of the said resolution, which was agreed to.

Warren Chase moved to amend the said resolution by striking out all after the word "resolved," and inserting as follows: "That no member of the convention or of the committee of the whole be permitted to speak more than fifteen minutes on any one motion, or more than once on the same question in the same stage of proceedings, without unanimous consent or a suspension of the rules. But each member may speak long enough to make fifteen minutes in the aggregate," which was agreed to. And a division having been called for, there were 43 in the affirmative, negative not counted.

Mr. Hicks moved that the resolution as amended be laid upon the table, which was disagreed to. And a division having been called for, there were 37 in the affirmative and 45 in the negative.

Mr. Kellogg moved that the further consideration of the resolution be indefinitely postponed. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 50, negative 45; for the vote see Appendix I, roll call 132].

Mr. Magone offered a resolution that no member should speak or occupy the floor more than fifteen minutes in committee of the whole, and no member should speak more than once on the same question till every other member desiring to speak has been heard.

Mr. Tweedy moved to suspend the rules in order to consider the question now.

The rules were suspended.

Mr. W. Chase wished to reach the convention proper as well as the committee of the whole—therefore he moved to strike out all after "resolved" and insert in place as follows: that "no member of the convention or of the committee of the whole

be permitted to speak more than fifteen minutes on any one motion, or more than once on the same question in the same stage of proceeding without unanimous consent or a suspension of the rules."

Mr. Magone thought this would hardly allow members proper time to explain their votes in convention. He was opposed.

Mr. Judd wished to say that in the beginning he was in favor of some restriction, but he considered this gagging without parallel.

W. Chase thought the body of the convention had been gagged long enough. He was now for gagging some of the talking members.

H. Barber thought it altogether too stringent not to allow a member to speak twice when explanation might be needed.

Mr. Moore would support the resolution. He said we have plenty of men who are in favor of the theory of economy, but when we come to the practice we find them opposed.

Mr. Kellogg wished to define his position. He had once thought there was no need of such a rule. He now thought there was.

Mr. Bevans hoped he wouldn't be considered as speaking for his own benefit, but he did wish to allow gentlemen who could discuss a question with profit more than fifteen minutes the privilege. He supposed this was meant to hinder the speeches for buncombe. He considered the remedy worse than the evil.

Mr. Elmore saw that this would be doing great injustice to the gentleman from Mukwonago (self), who couldn't make long speeches, but wanted to make a good many of them. He moved to amend by adding "that each member may speak long enough to make fifteen minutes in the aggregate," which was adopted.

Mr. Lovell said a word against the resolution in any shape.

Mr. Kellogg moved its indefinite postponement, which was carried, ayes 50, noes 45.—*Express,* Nov. 24, 1846.

Mr. Crawford introduced the following resolution, which was read, to wit: "*Resolved,* That the legislature shall provide by law for exemption from taxation and execution five hundred dollars worth of household furniture, mechanics' tools, farming utensils, professors' books, or other property belonging to each family in this state."

Mr. Manahan introduced the following resolution, which was read, to wit: "*Resolved,* That the legislature shall have power to prohibit by law, from forced sale, a certain portion of the property of all heads of families [the homestead of a family] not to exceed 200 acres of land (not included in a town or city); or any town or city lot, or lots, in value not to exceed $2,000 shall not be subject to a forced sale for any debts hereafter contracted; nor shall the owner, if a married man, be at liberty to alienate the same unless by the consent of the wife, in such manner as the legislature may hereafter point out."

No. 14, "Bill of rights," was then taken up. And the question being on concurring [in the amendments of the select committee thereto, and a division of the question having been called for, and the question having been put on concurring] in the first amendment, which was to strike out the word "from" in the second line of the first section and insert the word "with" in lieu thereof, it was decided in the affirmative.

The second amendment, which was to strike out of the sixth section the words "in all criminal cases and," and also to strike out the word "common" before the word "law," was then concurred in.

The question being on concurring in the third amendment, which was to add the twentieth section, Mr. Elmore moved to amend the same by striking out the words "oyer and terminer" and inserting the words "to hear and determine," which was disagreed to. And a division having been called for, there were 19 in the affirmative, negative not counted.

Mr. Baird moved to amend the amendment by adding the following proviso: "*Provided,* however, That the legislature may provide by law for the holding of special sessions of the circuit courts for the trial of criminal cases," which was agreed to.

The question was then put on concurring in the amendment as amended and was decided in the negative. And a division having been called for, there were 21 in the affirmative and 33 in the negative.

The fourth amendment of the select committee, which was to add the twenty-first section, was then concurred in.

The question then being on concurring in the fifth amendment of the select committee, which was to add the twenty-second section, Mr. Elmore moved to amend by striking out the word "allodial" and inserting the words "owned by the owners thereof on their own hook, with the right of disposal."

Mr. Elmore, by leave, modified his amendment by striking out the words "on their own hook" and insert[ing] "in their own right."

The question was then put on the amendment as modified and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 35, negative 56; for the vote see Appendix I, roll call 133].

Mr. Elmore moved to amend the amendment by striking out the word "escheat," which was disagreed to.

The question was then put on concurring in the amendment and was decided in the negative. And the ayes and noes having been called

for and ordered, those who voted in the affirmative were [affirmative 43, negative 45; for the vote see Appendix I, roll call 134].

The amendments having all been disposed of, Mr. Mills moved to amend by adding a new section, as follows:

"Section —. All persons who observe the seventh day of the week and keep that day as a Sabbath shall be protected in the same manner in keeping that day as those who observe the first day of the week."

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 32, negative 52; for the vote see Appendix I, roll call 135].

Mr. Magone moved to amend by adding a new section, as follows: "Section —. That all persons within the limits of this state shall have the right to receive such money, notes, or evidences of debt as they may think proper," when Mr. Manahan moved that the convention adjourn. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 33, negative 51; for the vote see Appendix I, roll call 136].

On motion of Mr. Mills the convention took a recess until two o'clock, P. M.

The bill of rights as reported by the select committee then came up, which induced considerable debate on striking out foreign terms in unknown tongues and inserting English, during which many definitions of the terms "allodial" and "escheat" were offered which were thus summed up by General Crawford:

Mr. President: I did not intend to say a word on this subject, but after the explanation of my venerable friend from Iowa (General Smith) that the word "allodial" meant "my own," and that if a man possessing an estate died without heirs, his estate did "escheat" to the state—after that explanation—I came to the conclusion that my land is my own unless I get cheated out of it, and if I died without heirs it will go to the attorney-general.—*Express,* Nov. 24, 1846.

TWO O'CLOCK, P. M.

No. 14, "Bill of rights," was taken up, when Mr. Magone moved to amend the same by adding as follows: "Section —. That all persons within the limits of this state shall have the right to receive and circulate such money, notes, or evidences of debt issued without this state, as they may think proper, except such as are counterfeit or fraudulent, unless prohibited by legislative enactment."

Marshall M. Strong raised a question of order, as follows: "Can the convention entertain the proposed amendment, there having been an article adopted at a previous day of the session directly of an opposite nature, and which this amendment would virtually repeal?"

The President (Mr. Judd in the chair) decided the amendment in order, from which decision Marshall M. Strong took an appeal. And pending the question on said appeal, Mr. Parks moved a call of the convention, which was seconded, and Messrs. Agry, John M. Babcock, Baker, Bennett, Berry, Hiram Brown, Warren Chase, Coombs, Coxe, Dunning, Goodell, Goodsell, Gray, Geo. B. Hall, Hazen, Geo. Hyer, Kern, Parsons, Rogan, John Y. Smith, and Steele, reported absent.

Nathaniel F. Hyer moved that Geo. Hyer be excused from his attendance, which was agreed to.

Mr. Hunkins moved that Mr. Dunning be excused from his attendance, which was agreed to.

Mr. Elmore moved that all further proceedings under the call be dispensed with, which was disagreed to.

Mr. Noggle moved that Geo. B. Hall be excused from his attendance which was agreed to.

Mr. Ryan moved that Mr. Randall be excused from his attendance, which was disagreed to. And a division having been called for there were 33 in the affirmative and 42 in the negative.

George B. Smith moved that John M. Babcock be excused from attendance, which was agreed to.

A. Hyatt Smith moved that Mr. Steele be excused from his attendance, which was disagreed to. And a division having been called for, there were 27 in the affirmative, negative not counted.

The sergeant at arms was sent for the absentees. The sergeant at arms having reported that all the absentees were in attendance, the question recurred on the appeal from the decision of the President. And the question having been put, "Shall the decision of the President stand as the judgment of this convention?" it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 36, negative 67; for the vote see Appendix I, roll call 137].

TWO O'CLOCK, P. M.

Mr. Magone renewed his motion to amend, as in the forenoon.

Marshall M. Strong rose to a question of order and stated it to be that the amendment now proposed was diametrically opposite to the sixth section of the bank article which had been adopted by the convention and cannot again be brought up. If it could, there would be no end to the session. In support of this question of order he read the forty-fifth section of Jefferson's manual.

Mr. Judd, who was in the chair, decided that the question now presented was not the same as that contained in the sixth section of the bank article and it was in order to propose it.

Marshall M. Strong appealed from the decision of the Chair, and asked for and had a call of the convention.

Mr. Baird could not sustain the decision of the Chair. That decision would allow every question which had been once decided by the convention to be called up as often as any man should feel disposed to revive it, and by that means no question could ever be said to be settled. Some time since a vote was taken to pass the bank article, against which he had voted, but a large majority had passed it; then on yesterday a motion was made to reconsider that vote and it was lost, and those who voted in the minority ought to be content and let the whole matter go to the people, and all parties ought now to go to work to perfect the constitution.

Mr. Baker did not look on this amendment as the same that had been decided by the bank article. The bank article prohibits the circulation of foreign bank bills of a certain character, but this allows a man the right to pay out and receive any bill, note, or evidence of indebtedness in exchange for his commodities. Though the rule may be as laid down by the gentleman from Racine (Mr. Strong) in parliamentary practice there have been instances where the rule has been departed from on account of the magnitude of the subject. This question was one of those important questions which should be allowed to override the rigidity of the rules. In support of this position Mr. Baker read from the manual by Cushing that when an amendment has been once adopted and another offered the Chair is not to decide that the second is the same or inconsistent with the first, but that point is to be left to the house.

Marshall M. Strong said if it was the determination of the party which by accident had a majority in the convention today to override all rules, he hoped they would say so in plain terms, and then others could determine what course had better be pursued.

H. Barber could not vote to sustain the decision of the Chair. Reading from and referring to the doctrine as laid down by Mr. Cushing on this subject, he entertained no doubt but that the section in the article on banking and the one now offered were directly opposite, and there was now no way of reaching that article but by a reconsideration of the article, a motion to do which had failed.

Mr. Upham should vote to sustain the decision of the Chair; and, although he had not had much time to look at and reflect on the decision, yet he believed the question now presented was materially different. This comes up as an amendment to the bill of rights, and it is objected to as being repugnant to a section which has been incorporated into and made a part of the article on banks and banking. The convention differs from legislative bodies in that it can have but one session; but even in them these questions have often been got round where there has been a change of opinion or the legislature was convinced that great injustice was likely to be done.

W. R. Smith had no doubt but this was the same question as was contained in the sixth section of the bank article, and on which the convention had acted finally. The convention have declared by the article that paper of a certain character shall not circulate; this amendment says it may. The one is repugnant to the other, both of which cannot stand in the same constitution, as they destroy each other. He had opposed the adoption of the sixth section, but being overruled and the section incorporated into the article, he had voted to adopt the same; and for a similar reason he had voted against a reconsideration of the same.

Mr. Ryan was not going to quote either Jefferson or Cushing, but he thought the passages read by the President and the gentleman from Walworth (Mr. Baker) about as pertinent to the issue as a passage from the "Tale of a Tub." He had yesterday been told that the vote taken was a "clincher" and if so he desired to know how it could be unclinched.

Mr. Phelps should not quote Jefferson or Cushing, but Hoyle taught that if a man is beaten he must give up, and down with the dough.

Mr. Hunkins could not see any propriety in rules which would tie up the convention so that a majority could not repeal what a majority had once passed upon.

The decision of the Chair was not sustained, and the amendment was decided to be out of order [roll call No. 137].—*Argus,* Nov. 24, 1846.

Mr. Whiteside moved that the convention do now adjourn, which was disagreed to.

The question then recurred on ordering No. 14, "Bill of rights," to be engrossed for its third reading, when Mr. Graham moved to amend the same by adding as follows: "Section —. No money shall be drawn from the treasury for the benefit of religious societies or theological or religious seminaries," which was agreed to.

Mr. Burchard moved to amend by inserting in the first line of the first section thereof, after the words "all men," the words "negroes and mulattoes excepted."

Mr. Burchard offered to amend by inserting after the word men "negroes and mulattoes excepted."

He wished the constitution to appear consistent on its face. This bill declared that all men were free and equal; the suffrage bill denied that position, and if in that bill negroes and mulattoes were to be proscribed, he declared the assertion to be a libel. It was for this reason he offered the amendment.—*Express,* Nov. 24, 1846.

Mr. Ryan moved to amend the amendment by inserting before the word "negroes" the word "women," which was disagreed to.

The question then recurred on adopting the amendment offered by Mr. Burchard and was decided in the negative.

Mr. Tweedy moved to amend by striking out the thirteenth section and inserting as follows:

"Section —. No bill of attainder or ex post facto law shall ever be passed in this state nor any law impairing the validity of contracts or depriving a party of any remedy for enforcing a contract which existed when the contract was made; nor shall any conviction work corruption of blood or forfeiture of estate."

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 38, negative 64; for the vote see Appendix I, roll call 138].

The following was introduced by Mr. Tweedy to be inserted in place of section 13 in the bill of rights, the same having been

ably supported in committee of the whole by himself and Mr. Ryan. We have italicized the important clause:

No bill of attainder or ex post facto law shall ever be passed in this state, nor any law impairing the validity of contracts or *depriving a party of any remedy for enforcing a contract when the contract was made;* nor shall any conviction work corruption of blood or forfeiture of estate.

It was lost.—*Express,* Nov. 24, 1846.

Mr. Randall moved to amend by adding as follows: "Section —. No fine or punishment shall be imposed or inflicted for any act in the commission of which no moral turpitude is involved."

Warren Chase moved the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

And the question having been put on adopting the amendment of Mr. Randall, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 8, negative 86; for the vote see Appendix I, roll call 139].

The said article was then ordered to be engrossed for its third reading.

Mr. Noggle asked that leave of absence be granted to Mr. Pierce.

Leave was granted.

On motion of Mr. O'Connor the convention adjourned.

Monday, November 23, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday [Saturday] was read.

Petitions were presented and referred as follows: By Mr. Janssen, a petition of citizens of Washington County, asking that the homestead of citizens be exempted from sale on execution. By Mr. Toland, a petition of citizens of Washington County upon the same subject. By Mr. Noggle, a petition of citizens of Rock County upon the same subject. Which were severally referred to the committee on miscellaneous provisions.

Mr. Hunkins, from the committee on engrossment, reported No. 14, "Bill of rights," and articles Nos. 5, 6, and 7, and sundry resolutions as correctly engrossed.

Resolutions were introduced and read as follows, to wit:

By Mr. Judd. "*Resolved,* That the committee on revision and arrangement be discharged from the further consideration of the article on banks and banking, and that said article be referred to a committee of the whole; and that the convention will on Monday next resolve itself into committee of the whole on said article at ten o'clock in the forenoon to the exclusion of all other business."

By Mr. Baker. "*Resolved,* That the committee on miscellaneous provisions be instructed to inquire into the expediency of adopting a constitutional provision rendering any person incapable of holding any office of honor, profit, or trust within this state, who shall hereafter fight a duel with deadly weapons, or who shall be a second to either party to any such duel."

"*Resolved,* That the committee on the organization and functions of the judiciary be instructed to inquire into the expediency of declaring in the constitution whether the common law, or what parts thereof shall be adopted as the law of the state of Wisconsin."

By Mr. Gray. "*Resolved,* That the secretary of the convention be, and he is hereby directed to advertise for the next three weeks in one or more of the newspapers printed in Madison that sealed proposals will be received by him for the printing, folding, and stitching of —— number of copies of the journal of the convention; and the secretary shall contract with the lowest bidder, provided that the amount of said printing shall not exceed the lowest price paid by the Council at its last session; and if there shall not be any within three weeks as low as the price paid by the Council, the secretary shall continue to advertise for six weeks, when he shall close the contract with the lowest bidder."

Mr. Hesk asked that leave of absence be granted to Mr. Ellis. Leave was granted. Mr. Boyd asked that leave of absence be granted to Mr. Seaver. Leave was granted.

The resolution introduced by Mr. Ryan on the twentieth instant, relative to the "act of Congress granting a quantity of land to aid in the improvement of the Fox and Wisconsin rivers," was taken up, when Mr. Beall moved that the consideration thereof be postponed indefinitely. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 58, negative 40; for the vote see Appendix I, roll call 140].

The resolution introduced by Mr. Crawford on Saturday last, relative to the exemption from taxation and execution of certain property, was taken up. Mr. Magone moved to amend the same by striking out the words "taxation and." And pending the question thereon, Warren Chase moved that the said resolution be laid upon the table, which was agreed to.

The resolution introduced on Saturday by Mr. Manahan, relative to exemption of certain property from attachment or execution, was taken up, when Mr. Manahan, by leave, introduced the following as a modification of the original resolution:

"*Resolved,* That the legislature shall provide by law that all property, real and personal, whose appraised cash value shall not in the aggregate exceed the sum of $1,000, shall be forever free from forced sale by attachment or execution (except by virtue of mortgage) and in all cases where the aggregate cash value shall exceed the sum of $1,000 the debtor or owner of said property shall in all cases have his election as to what property he will have exempted or sold. All appraisements of property shall be made by disinterested persons, under oath."

Mr. Baker moved that the same be laid upon the table, which was agreed to.

Articles Nos. 5, 6, and 7, and sundry resolutions were then taken up and read the third time, when Mr. Judd moved that the further consideration of said articles be postponed until tomorrow. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 37, negative 60; for the vote see Appendix I, roll call 141].

Mr. Judd moved that the said article be referred to a select committee with instructions to strike out the word "five" in the ninth section and insert the word "ten" and to add the following at the commencement of section 9: "Section —. This state may, to meet accidental deficits and failures in revenue, contract debts; but such debts singly or in the aggregate shall not at any time exceed $50,000 and."

The President decided the motion to be out of order.

Mr. Baker moved that the further consideration of the article be postponed for three days, when Mr. Tweedy moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative. And the question having been put on the passage of the said article, it was decided in the affirmative.

And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 71, negative 24; for the vote see Appendix I, roll call 142].

So the article passed, and the title thereof was approved of.

No. 14, "Bill of rights," was taken up and read a third time, when Mr. Judd moved that the further consideration thereof be postponed until tomorrow, which was disagreed to.

And the question having been put on the passage of the said article, it was decided in the affirmative. And the ayes and noes having been called for under the rules, those who voted in the affirmative were [affirmative 85, negative 9; for the vote see Appendix I, roll call 143].

So the article passed, and the title thereof was agreed to.

The convention then resolved itself into committee of the whole for the further consideration of No. 13, "Article on the organization and functions of the judiciary," Mr. Hackett in the chair. And after some time spent therein the committee rose and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Nathaniel F. Hyer the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

The convention again resolved itself into committee of the whole for the further consideration of article No. 13, Mr. Hackett in the chair. And after some time spent therein the committee rose and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Mr. Baird the convention took a recess until seven o'clock, P. M.

SEVEN O'CLOCK, P. M.

The convention again resolved itself into committee of the whole for the further consideration of No. 13, "Article on the organization and functions of the judiciary," Mr. Hackett in the chair. And after some time spent therein, the committee rose and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Mr. Kellogg the convention adjourned.

The convention then went into committee of the whole for the further consideration of the article on the judiciary, Mr. Hackett in the chair, the question being on the amendment of Mr. J. A. Barber, making circuit judges also judges of the supreme court.

N. F. Hyer moved to amend the amendment so as to make the circuit judges also supreme judges for the term of five years and till the legislature shall otherwise direct. He be-

lieved that a separate supreme bench was best adapted to the wants of this state; still the circuit judges might be enough for the duty at present. He then read similar provisions from the constitutions of Florida and Alabama. The amendment was adopted. The amendment of Mr. Barber, as amended, was then adopted.

After verbal amendments in sections 7 and 8, Mr. Gray moved to strike out the last clause of section 9, to wit: "No election for judges or for any single judge shall be held within thirty days of any other general election."

Mr. Lovell supported the amendment. He wished the election for judges should be held on the same day with the town elections, when the agricultural people would be in.

Mr. Baker thought the original bill could be easily amended so as to meet the wishes of the gentleman from Racine (Mr. Lovell) to which he had no particular objection.

Mr. Ryan thought this provision looked much like doubting the system which the bill proposed. If gentlemen will adopt the elective system, he hoped they would take it without at the same time casting a slur upon it. Besides if by leaving the thing open it didn't work well, he thought the legislature could easily provide.

Mr. Tweedy was surprised to hear the remarks of the gentleman from Racine (Mr. Ryan). "A slur upon the people!" said he. Then is the bank article "a slur upon the people!" Then is every article we have passed "a slur upon the people!" He could see no force in that argument; he was surprised to hear it advanced. Said he, the people have all decided that the judge is not to be elected on political grounds; but, said he, every man knows that in general elections one man carries another—there is always combination. Men are nominated with reference to each other—it is the whole system. He had not, however, any great objection to having the election at the same time with the election of town officers.

The motion to strike out was lost.

Mr. Boyd then offered an amendment to make the clause read as follows: "No election for judges shall be held with-

in thirty days of any general election for state or county officers"; which was adopted.

Mr. Magone moved to strike out "one" and insert "two" in the tenth section, so that if any judge shall resign his office he shall not be eligible nor appointed to any office within two years after such resignation. The motion prevailed.

Marshall M. Strong moved to amend the thirteenth section by adding the following: "The clerk of the circuit court shall perform all the duties of the officers of register of deeds and clerk of the board of supervisors. On the first Monday of January and July in each year he shall make a statement, under oath, of all the fees of his office during the half year preceding, and deposit the same in the office of the county treasurer. When the fees mentioned in such statement shall exceed the sum of seven hundred and fifty dollars he shall pay seventy-five per cent of such excess into the county treasury. He shall in all cases receive his fees in advance and give such bail as the legislature may require."

Mr. Magone moved to amend by striking out "and clerk of the board of supervisors," which prevailed. The amendment to the section was then adopted.

Mr. Kinney moved to amend so that the clerk should be elected for two instead of four years, which was carried.

Mr. Parks moved as a new section that the legislature have power to establish inferior courts in the several counties, with such jurisdiction as the law may prescribe, which prevailed.

Mr. Tweedy moved as a new section that no justice shall receive any fee or perquisite of office, which was lost.

After some discussion of the plan for courts of conciliation, the convention adjourned.—*Express,* Dec. 1, 1846.

TUESDAY, NOVEMBER 24, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Resolutions were introduced and read as follows, to wit:

By Nathaniel F. Hyer. "*Resolved,* That the rules of this convention shall not be so construed as to prevent the report of the committee on revision and adjustment from being considered in committee of the whole, and receiving amendments there[to] if the majority shall so direct."

By Mr. Noggle. "*Resolved,* That the eighteenth rule be amended by adding as follows to wit: 'unless instructed so to do by resolution: *Provided,* always, That such resolution of instruction shall contain the particular matter proposed to be added, stricken out, or amended, and shall be considered without debate, unless by leave of the convention.' "

By Hiram Brown. "*Resolved,* That all articles that have passed their third reading be printed for the use of the convention."

The majority and minority reports of the select committee on resolutions relative to disqualification from office were then taken up, when Mr. Dennis moved that the same be laid upon the table. Mr. Magone moved a call of the convention, which was seconded, and Messrs. Agry, Beall, Brace, Clark, Coombs, Dunning, Gilmore, Graham, Granger, Green, Hays, Hunkins, Phelps, Prentiss, Randall, Rankin, and George B. Smith reported absent. Mr. Magone moved that all further proceedings under the call be dispensed with, which was agreed to. And a division having been called for, there were 58 in the affirmative, negative not counted.

Mr. Dennis then withdrew his motion.

Mr. Magone moved that the majority and minority reports be referred to the committee of the whole and postponed until the first Monday in December next.

Mr. Judd moved to amend the motion by striking out the word "December" and inserting the word "January."

Warren Chase moved that the said reports be laid upon the table. And a division of the question having been called for, and the question having been put on laying the report of the majority of the committee on the table, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 64, negative 32; for the vote see Appendix I, roll call 144].

The question was then put on laying the minority report on the table and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 60, negative 38; for the vote see Appendix I, roll call 145].

The majority and minority reports of the special committee to whom were referred resolutions incapacitating from holding offices the delegates to this convention and all now holding office in the territory then came up.

W. Chase moved to lay both reports on the table.

Mr. Elmore did'nt like this shirking. A majority of this convention, said he, have already voted for these resolutions—if now they want to crawfish let them come fairly up to the scratch and vote them down. He didn't like this way of smothering in the dark.

A division of the question was then called for, and the question was then taken first on the majority report, which was laid on the table, ayes 64, noes 31; then on the minority report which also was laid on the table, ayes 60, noes 38.—*Express*, Dec. 1, 1846.

Mr. Crawford, from the select committee to whom was referred the reports of the clerks of the several courts, made the following report, to wit:

"The select committee to whom was referred the communications from the clerks of the several courts beg leave to report that they have received returns from six clerks only, which show the expense and costs are over twice as much as moneys collected. There are a number back yet that have neglected to make their returns.

"We have not received returns from Milwaukee, Racine, Walworth, and many other courts.

JOHN CRAWFORD, Chairman."

Mr. Magone, by leave, introduced the following resolution, which was read, to wit: "*Resolved*, that the following be made a section of the schedule:

"Section —. No member of this convention shall hold any office of honor, trust, or profit created by this constitution herewith submitted, for the two years next succeeding its adoption."

Moses M. Strong moved that the accounts of the several clerks of courts be referred to the committee on expenses, which was agreed to.

The convention then resolved itself into committee of the whole for the consideration of No. 13, "Article on the organization and functions of the judiciary," Mr. Hackett in the chair. And after some time spent therein the committee rose and reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Mr. Moore the convention took a recess until two o'clock, P. M.

The convention then resolved itself into committee of the whole, Mr. Hackett in the chair, for the further consideration of the article on the judiciary.

The committee proceeded further to consider the section providing for courts of conciliation, which was finally adopted as follows:

"Tribunals of conciliation may be established with such powers and duties as may be prescribed by law, but such tribunals shall have no power to render judgments obligatory on the parties unless they agree to abide the judgment or assent thereto, in the presence of each tribunal."

Verbal amendments only were made in the succeeding sections to the twenty-third, which reads as follows in the original article: "Any male citizen residing in this state, of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of learning and ability, shall be entitled to admission to practice in all the courts of this state."

Moses M. Strong wished to insert "white" before "male" which was disagreed to. He then moved to strike out all about "character and qualifications."

Mr. Ryan hoped that whichever the convention should decide to do, they would do one thing or the other—either shut the door close or open it wide. For his own part he didn't care much which. He thought it would be better for the profession perhaps that the door be thrown quite open—he didn't feel so sure it would be best for the public. As the law now stands, said he, the door is nominally shut, but in fact anybody can get in that wants to, and the whole profession is held responsible for the blunders and wickedness of men who ought never to have been in it. He hoped we would do either one thing or the other.

H. Barber didn't like the latitudinarian way—he had seen the evils of it—he thought that the practice of the law needed study. He hoped the section would stand as it is.

Mr. Manahan considered it antirepublican to make a separate profession—he was for freedom in the fullest sense of the term and he didn't fear that talent would suffer.

Mr. Drake had different views. He thought that by the present rule great care was used to preserve the respectability of the courts, and by so doing to preserve the security of the men doing business at the courts. It appeared to him that this throwing open the doors would increase the business of the lawyers fourfold. Now he (Mr. Drake) was not one who would cry down lawyers—he had as much respect for lawyers as for any class of men on earth. He felt under great obligations to lawyers on this floor for doing what he could not have done, but he could not go so far for them as to allow a system which would increase their business fourfold.

Mr. Ryan then read an amendment which he would offer in proper time, really doing, as he thought, what the convention seemed inclined to do.

Moses M. Strong liked the idea and was not particular about the language—he withdrew his amendment in favor of the gentleman from Racine (Mr. Ryan).

Mr. Ryan then introduced the following as a substitute for the original section:

"The profession of attorney, counsellor, and solicitor in the courts of this state is abolished. Any male person of the age of twenty-one years or upwards may appear in any court for himself or as attorney, counsellor, or solicitor for any other person."

Mr. Parks apprehended that this is a subject of more importance than gentlemen seem to think. Under the existing rule attorneys are sworn men, who do not need a special power of attorney to act for another. Would gentlemen do away with the profession and compel the lawyer to get a special power every time he would act for his client? Or would they allow any man to act for any other without such power? He (Mr. Parks) would hardly like that; he preferred to know who was acting for him.

Mr. Kellogg considered the whole business out of place here.

Mr. Ryan's amendment was then adopted, after which the committee rose.—*Express,* Dec. 1, 1846.

TWO O'CLOCK, P. M.

Mr. Tweedy, from the select committee to whom was referred No. 16, "Article on municipal corporations," reported the same back with amendments.

The convention then resolved itself into committee of the whole for the further consideration of No. 13, "Article on the organization and functions of the judiciary," Mr. Hackett in the chair. And after some time spent therein the committee rose and by their chairman reported the said article back with amendments.

And the question being on concurring in the amendments of the committee of the whole thereto, a division of the question was called for.

And the question having been put on concurring in the first amendment, to wit: to strike out of the first and second lines of the first section the words "and the judges of the supreme court, or of the major part of them," it was decided in the affirmative.

And the question having been put on concurring in the second amendment of the said committee, to wit: to strike out all after the word "courts" in the third line of the second section, it was decided in the affirmative.

And the question being on concurring in the third amendment of the committee, to wit: to strike out the fourth section and insert the following: "for the term of five years from the first election of the judges of the circuit courts and thereafter until the legislature shall otherwise provide. The judges of the several circuit courts shall be judges of the supreme court, a majority of whom shall constitute a quorum, and the concurrence of a majority shall be necessary to a decision. A judge who has sat in a cause in the circuit court shall be disqualified to sit in the same cause in the supreme court."

Mr. Ryan moved to amend the amendment by striking out the words "for the term of five years from the first election of judges of circuit courts and thereafter until the legislature shall otherwise provide." And the question having been put on the said amendment, it was decided in the affirmative [negative].

And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 30, negative 58; for the vote see Appendix I, roll call 146].

The question then recurred on the amendment as reported by the committee of the whole. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 77, negative 12; for the vote see Appendix I, roll call 147].

The question was then put on concurring in the fourth amendment which was to strike out the word "prohibition" in the fifth line of the third section and insert the word "injunction" in lieu thereof; and also to insert the word "and" after the word "original" in the same line; it was decided in the affirmative.

The question was then put on concurring in the fifth amendment reported by the committee, which was to amend section fifth by striking out the words "Lafayette and Montgomery" and inserting "Iowa" and also to add to the section as follows: "and the counties of Chippewa, St. Croix, and La Pointe shall be attached to the county of Crawford for judicial purposes, until otherwise provided by the legislature," and was decided in the affirmative.

The question was then put on concurring in the sixth amendment of the said committee, which was to strike out the word "when" in the second line of the seventh section, and insert the words "after he shall be" in lieu thereof, and was decided in the affirmative.

The question was then put on concurring in the seventh amendment of the committee, which was to strike out the word "prohibition" in the fourth line of the eighth section, and insert the word "injunction" in lieu thereof, and was decided in the affirmative.

The question was then put on concurring in the eighth amendment of the committee, which was to strike out of the first line of the ninth section the words "a supreme or circuit" and also to strike out the word "other" in the fourth line of the same section, and to insert after the word "election" in the same line the words "for state or county officers," and was decided in the affirmative.

The question was then put on concurring in the ninth amendment of the committee, which was to insert after the word "supreme" in the first line of the tenth section the words "and circuit" and strike out the words "not more than" immediately before the words $1,500"; also to strike out all of the second line of the same section to the word "and," where it last occurs therein; also, to strike out the number "one" in the seventh line of the same section and insert "two" in lieu thereof, and was decided in the affirmative.

The question was then put on concurring in the tenth amendment of the committee, which was to strike out all after the word "law" in the fourth line of the eleventh section, and was decided in the affirmative.

The question was then put on concurring in the eleventh amendment of the committee, which was to strike out the word "four" in the second line of the thirteenth section, and insert "two" in lieu thereof, and was decided in the affirmative.

The question was then put on concurring in the twelfth amendment of the committee, which was to amend the thirteenth section by adding after the word "election" in the fourth line the following: "The clerk of the circuit court shall perform all the duties of the office of register of deeds. On the first Monday of January and July in each year he shall make a statement under oath of all the fees of his office during the half year preceding and deposit the same in the office of the county treasurer. When the fees mentioned in such statement shall exceed the sum of $750, he shall pay seventy-five per centum of such excess into the county treasury. He shall in all cases receive his fees in advance and give such bond as the legislature may require." And also by striking out the word "four" and insert[ing] the word "two" in the second line of said section, and was decided in the affirmative.

The question was then put on concurring in the thirteenth amendment of the committee, which was to strike out of the first line of the fourteenth section the words "concurrent resolution" and insert in lieu thereof the word "address" and was decided in the affirmative. And a division having been called for, there were 31 in the affirmative and 17 in the negative.

The question was then put on concurring in the fourteenth amendment of the committee, which was to strike out of the fifth line of the fourteenth section the words "and no judge shall be removed for any cause for which he might have been impeached," and was decided in the affirmative.

The question was then put on concurring in the fifteenth amendment of the committee, which was to insert after the word "have" in the fourth line of section 16 the words "civil and criminal," and also to strike out all after the word "law" in the fifth line thereof and to add as follows, to wit: "The legislature shall have power to establish inferior courts in the several counties, with such limited civil and criminal jurisdiction as may be conferred by law," and was decided in the affirmative.

The question was then put on concurring in the sixteenth amendment of the committee, which was to strike out of the first line of the nineteenth section the words "in the name of," and was decided in the affirmative.

The question was then put on concurring in the seventeenth amendment of the committee, which was to strike out of the first line of section 20 the words "on process or a rate of fees on" and insert in lieu thereof the words "on all civil," and also to strike out all after the word "courts" in the second line to the word "shall" in the fourth line and insert the word "which" and was decided in the affirmative.

The question was then put on concurring in the eighteenth amendment of the committee, which was to strike out the twenty-second section and insert as follows: "The profession of attorney, counsellor, and solicitor in the courts of this state is abolished. Any male person of the age of twenty-one years or upwards may appear in any court for himself or as attorney, counsellor, or solicitor for any other person." Mr. Huebschmann moved to amend the amendment by striking out all before the word "any" in the second line which was agreed to. And a division having been called for, there were 43 in the affirmative and 30 in the negative.

Mr. Ryan moved to amend by striking out all after the word "section" and inserting as follows, to wit: "Every license to practice law shall expire in two years after the adoption of this constitution; and thereafter no person shall be permitted to practice law unless by license of the supreme court, to be granted only after a full examination in open court, and upon the unanimous certificate of the judges, to be entered on the records of the court, that the applicant has upon such examination exhibited full and abundant ability and learning to practice law with safety to the public and has produced satisfactory evidence of good moral character."

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 36, negative 54; for the vote see Appendix I, roll call 148].

The convention then went into committee of the whole on the judiciary, Mr. Hackett in the chair. Some verbal amendments were then made, and the committee rose and reported the article back to the convention with amendments. The question being on concurring in the amendments reported by the committee of the whole, they were severally adopted, except Mr. Ryan's amendment to the twenty-second section, which was stricken out, and the section left to stand so that "any male person of the age of twenty-one years or upwards may appear in any court for himself, or as attorney, counsellor, or solicitor for any other person."

Mr. Ryan then offered what he called the other horn of the dilemma. The convention having refused fairly to open the door, he wished it really shut. His amendment was as follows: To strike out the section and insert "Every license to practice law shall expire in two years after the adoption of this constitution; and thereafter no person shall be permitted to practice law in this state unless by license of the supreme court, to be granted only after a full examination in open court and upon the unanimous certificate of the judges, to be entered on the records of the court, that the applicant has upon such examination exhibited full and abundant ability and learning to practice law with safety to the public and has produced satisfactory evidence of good moral character."

The amendment was lost—ayes, 36; noes, 54.—*Express,* Dec. 1, 1846.

The question recurred on the amendment of the committee of the whole as amended. And having been put, it was decided in the affirmative.

The question was then put on concurring in the nineteenth amendment of the committee, which was to strike out of the first line of section 25 the words "as early as," and was decided in the affirmative.

The question was then put on concurring in the twentieth amendment of the committee, which was to strike out all after the words "modification and adoption," in the fifth line of the twenty-fifth section, and was decided in the affirmative.

The amendments of the committee having been gone through with, and the whole article being open for amendment, Mr. Gray moved to amend by striking out all after the word "term" in the third line of the ninth section. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 30, negative 63; for the vote see Appendix I, roll call 149].

Mr. Dennis moved to amend by striking out the fifteenth section and inserting as follows, to wit:

"Section 15. There shall be elected in each of the counties of this state one county judge, who shall perform the duties of judge of probate and shall have such jurisdiction in cases arising in justices' courts and in special cases as the legislature may prescribe," which was disagreed to.

Mr. Baker moved to amend by inserting the following as section 4:

"Section 4. Whenever the legislature shall establish a distinct supreme court, as provided in the fifth section of this article, the same shall consist of one chief justice and two associate justices, any two of whom shall constitute a quorum, and the concurrence of two of said judges shall be necessary to a decision. Such judges shall be chosen by the qualified electors of the state, and shall hold their office for the term of six years, and until their successors are elected and qualified."

Mr. Magone moved to amend by striking out the word "whenever" in the first line and insert the words "if ever" in lieu thereof, which was agreed to. And a division having been called for, there were 43 in the affirmative and 38 in the negative.

The question was then put on the adoption of the amendment as amended, and was decided in the negative. And a division having been called for, there were 25 in the affirmative, negative not counted.

Mr. Lovell moved to reconsider the vote by which the eighteenth amendment of the committee of the whole, which was relative to the admission of attorneys, was concurred in. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 42, negative 52; for the vote see Appendix I, roll call 150].

Mr. Hackett moved to amend the twenty-second section by adding the following words, to wit: "Subject to such rules of court as may hereafter be adopted," which was disagreed to.

And a division having been called for, there were 29 in the affirmative, negative not counted.

Mr. Beall moved to amend the tenth section by inserting between the words "of" and "$1,500" the words "not to exceed." And pending the question thereon, Marshall M. Strong moved that the article be recommitted to the committee on the organization and functions of the judiciary, which was agreed to. And a division having been called for, there were 51 in the affirmative and 19 in the negative.

On motion of Mr. Ryan the convention adjourned.

Wednesday, November 25, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read.

Mr. Graham, from the committee on education, schools, and school funds, reported No. 31, "Article on education, schools, and school funds."

"Section 1. The supervision of public instruction shall be vested in a state superintendent and such other officers as the legislature may direct. The state superintendent shall be chosen by the electors of the state once in every two years. The legislature shall provide for filling vacancies in the office of state superintendent and prescribe his powers and duties.

"Section 2. There shall be a state fund for the support of public schools throughout the state, the capital of which shall be preserved inviolate. All moneys that may be granted by the United States to this state and the clear proceeds of all property, real or personal, that has been or may be granted as aforesaid for educational purposes or for the use of the state when the purposes of the grant are not specified, and all moneys and the clear proceeds of all property which may accrue to the state by forfeiture or escheat shall be appropriated to, and made a part of the capital of said fund. The interest on said fund together with the rents on all such property until sold shall be inviolably appropriated to the support of said schools, annually. Provision shall be made by law for an equal and equitable distribution of the income of the state school fund amongst the several towns, cities, and districts, for the support of schools therein, respectively, in some just ratio to the number of children attending such schools respectively.

"Section 3. Provision shall be made by law requiring the several towns and cities to raise a tax on the taxable property therein annually, for the support of common schools in said towns and cities, respectively. The amount of such tax for each year shall not be less in any town or city than with the amount receivable by such town or city from the state school fund will produce an amount equal to one dollar and fifty cents for every scholar therein.

"Section 4. The legislature shall provide for a system of common schools which shall be as nearly uniform as may be throughout the state, and inasmuch as the public schools should be equally free to children of all religious persuasions, no book of religious doctrine or belief, and no sectarian instruction shall be used or permitted in any public school.

"Section 5. The legislature shall provide for the establishment of libraries, one at least in each town and city, and the money which shall be paid as an equivalent for exemption from military duty and the clear proceeds of all fines assessed in the several counties for any breach

of the penal laws shall be exclusively applied to the support of said libraries.

W. W. GRAHAM, Chairman
E. G. RYAN
G. M. FITZGERALD"

Which was read the first and second times, referred to the committee of the whole, and ordered printed.

Mr. Steele, from the committee on miscellaneous provisions, reported No. 32, "Article on the rights of married women, and on exemption from forced sale."

"The committee on miscellaneous provisions, to whom was referred the subject of the rights of married women, as also the subject of the exemption of the homestead from forced sale, respectfully report the following article as the result of their deliberations:

"Section 1. All property, both real and personal, all moneys, evidences of debt or choses in action of the wife owned or claimed by her before marriage and also that acquired by her after marriage by gift, devise, descent, or by purchase with her separate funds, shall be her separate and individual property, and none of it except that given her by her husband shall in any manner or form be liable for his debts, and that donated by the husband shall only be liable for debts owing by him at the time of the donation, and in the same manner and to the like extent as if he had retained the same and no further. Laws shall be passed providing for the registry of the property of the wife and for carrying out the provisions of this section.

"Section 2. The following property shall in no way be liable for debt and shall be exempt from all judgments and liens and from levy and sale upon any execution or from any forced sale upon any liability hereafter contracted, to wit:

"The homestead, including 160 acres of land which shall be used solely for farming purposes, or in place thereof at the option of the owner any lot or lots in any town, village, or city in this state of the value, including improvements, not to exceed $2,000, all household furniture and wearing apparel, the family library and pictures, the tools of a mechanic or miner, all agricultural implements of a farmer or gardener, the team of a farmer or teamster, with the necessary appendages, all livestock, and the products of the farm, not exceeding in value $500, all necessary provisions and fuel provided for use; a seat or pew in any house of worship; all tombs, burial lots, or rights of burial; the library of a minister of the gospel, lawyer, or physician; the horse, necessary tackle and vehicle; medicines and instruments of a physician or surgeon.

"The legislature may make such other and further exemptions as to them shall seem proper.

E. STEELE, Chairman
W. CHASE"

Which was read the first and second times, referred to the committee of the whole, and ordered to be printed.

Mr. Gray moved that 2,000 extra copies be printed for the use of this convention.

Mr. Ryan moved to amend by striking out the word "thousand," which was disagreed to. And a division having been called for, there were 17 in the affirmative, negative not counted.

Mr. Gray moved to print 2,000 extra copies of the report.

Mr. Ryan moved to amend the motion by striking out the "000."

Mr. Gray had made his motion seriously. This was the only subject on which any great number of petitions had come up to us. He thought it right to print the extra copies.

The question was then taken on Ryan's amendment, which was lost.—*Express,* Dec. 1, 1846.

Moses M. Strong moved that the motion of Mr. Gray be laid upon the table, which was agreed to.

The resolution introduced by Mr. Judd on the twenty-third instant, relative to banks and banking, was taken up, when Mr. Judd moved that the further consideration thereof be postponed until Monday next.

Moses M. Strong moved that the said resolution be laid upon the table. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 49, negative 49. For the vote see Appendix I, roll call 151].

Mr. Fuller, by leave, asked that leave of absence be granted him. Leave was granted. Mr. Steele asked that leave of absence be granted to Mr. French. Leave was granted.

Mr. Baker, by leave, gave notice that he would, on some future day, move to reconsider the vote by which the convention agreed to adjourn on the first day of December.

Pending the question on the adoption of the resolution of Mr. Judd, the morning hour having expired, the said resolution was laid over until tomorrow.

Mr. Judd moved to postpone the consideration of the resolution introduced by him, discharging the committee on revision from further consideration of the bank article till Monday next.

A motion to lay the resolution on the table was lost—ayes 49, noes 49.

Moses M. Strong hoped if they were determined to try this question again it might be done now.

Marshall M. Strong hoped gentlemen would not bring this agitating subject before them now—he wished it postponed till all the other business of the convention is done.

Mr. Judd declared that his very motive.

At this time the debate and whole matter were cut off by the expiration of the morning hour.—*Express,* Dec. 1, 1846.

No. 16, "Article on municipal corporations," was taken up, when Marshall M. Strong moved that the same be referred to the committee of the whole, which was agreed to.

The convention then resolved itself into committee of the whole for the further consideration of No. 2, "Resolution relative to colored suffrage," Mr. Baird in the chair. And after some time spent therein, the committee rose and reported the same back to the convention without amendment.

Mr. Whiteside moved a call of the convention, which was ordered, and Messrs. Agry, Hiram Barber, J. Allen Barber, Beall, Bennett, Clark, Coombs, Elmore, Granger, Holcombe, N. F. Hyer, Magone, Parks, Phelps, Geo. B. Smith, and Moses M. Strong reported absent.

Messrs. J. Allen Barber and N. F. Hyer were excused from their attendance. The sergeant at arms was sent for the absentees, and pending his report Mr. Dennis moved that all further proceedings under the call be dispensed with, which was agreed to.

Mr. Randall moved to amend the said resolution by striking out the words "the next general election and at," which was agreed to.

Moses M. Strong moved to amend by inserting after the word "officers" the words "and shall be eligible to all offices" when Mr. Parks moved that the further consideration of the said resolution be postponed until Monday next, which was disagreed to.

Warren Chase moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative. And the question having been put on the adoption of the amendment proposed by Moses M. Strong, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 61, negative 39; for the vote see Appendix I, roll call 152].

The question then recurred on ordering the said article to be engrossed for its third reading. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 54, negative 49. For the vote see Appendix I, roll call 153].

Moses M. Strong moved that the vote ordering the said resolution to be engrossed for its third reading be reconsidered, and moved a call of the convention, when A. Hyatt Smith moved that the convention take a recess until two o'clock, which was agreed to. And a division having been called for, there were 63 in the affirmative, negative not counted.

Negro Suffrage

The resolution and article offered by Mr. Randall was taken up, and the convention went into committee of the whole on said article, Mr. Baird in the chair.

And after a short time it was reported back without amendment.

The question was on its engrossment for its third reading.

A call of the house was made.

Mr. Strong of Iowa addressed the convention against the article. He had hoped this matter would not have been forced upon them. He had hoped that out of respect to the opinions of the western people the question would not now be urged. He could not let the question pass without using his efforts to prevent it. He believed, and his constituents had reason to believe, that it was the intention of the people of the east to adopt this provision.

Mr. Randall rose to say a few words. He introduced this proposition on his own responsibility. He had not been instructed to vote for negro suffrage as had been intimated by some reports he had seen in the Madison *Express*.

Mr. Burchard said that if the resolutions that passed the convention from whom the gentleman received his nomination did not instruct him to vote for negro suffrage, he did not know what meaning words in the English language did convey.

Mr. Randall said it was merely a declaratory resolution, recognizing the democratic principle of universal suffrage.

J. Y. Smith was in great doubt as to the proper course to be pursued on this question and spoke of the reasons which were presented on both sides.

Mr. Hackett wished to explain his views. He did not entertain the opinion that the question should be thus separately submitted; but out of deference to his constituents who held different views he should vote for the proposition.

Mr. Harkin thought it would endanger the constitution and should therefore oppose it.

Mr. Noggle was not in favor of negro suffrage, but he believed a large portion of the people wished this question to be

separately submitted. He did not believe the people of Wisconsin were in favor or would vote to adopt this proposition.

Mr. Whiteside did not believe in submitting it as a separate proposition. If the convention believed a majority of the people were in favor of negro suffrage it should be placed in the constitution. If the people were opposed to it, it should not be submitted to the people in any shape.

Mr. Steele should not cast his vote on this question as a matter of expediency, but on the principles of right. If he had been present, he should have voted to strike out of the suffrage article the word "white." He advocated his position at some length.

Mr. Holcombe did not know what were the views of his constituents on this question, but he was opposed to extending the right of suffrage to the negro. He spoke of the peculiar position of this territory in regard to the South, and of the national difficulties that were growing out of the relations betwixt the two races in this country, and advocated the principle of colonization as the only effectual remedy for these evils.

H. Barber rose to give the reasons which should govern his vote. He could not see that it was necessary to pass this article to conciliate the abolitionists. They would not be satisfied short of a provision of this character incorporated in the constitution. The appeal that came up from the western part of the territory was great reason that had governed him and would govern him in his action on this question.

Mr. Moore should vote on this question as he thought right and was in favor of the resolution. He closed his remarks by calling for the previous question, which was not seconded.

Mr. Parks moved to postpone the question till Monday next. He wanted to have an opportunity to present the question of Indian suffrage in the same manner.

Mr. Strong of Iowa moved to amend by inserting "and shall be eligible to all offices," after the clause that they shall be allowed to vote.

Mr. W. Chase should vote for the amendment and for the article. He had but little feeling on the subject, but his constituents had an interest in this question.

The amendment was adopted.

Mr. Judd had supported this proposition heretofore, but should not vote for the article on account of the amendment just adopted.

The vote was as follows [roll call No. 153].—*Democrat,* Nov. 28, 1846.

The resolution introduced by Mr. Randall for the separate submission of the question of colored suffrage was then taken up in committee of the whole, read, and reported back to the convention without amendment. The question being on ordering the resolution to be engrossed, a call of the house was ordered.

Mr. Elmore didn't like the resolution, though he should vote for it as the best he could get. He would have preferred to have had the proper Democratic principle in the article on suffrage; the word "white" should have been stricken out. Some gentlemen thought it would be expedient to gratify the wishes of a portion of the people by allowing a separate vote on this subject.

Mr. Steele should vote for the resolution not for expediency, but because he thought it right. He did not go for excluding blacks.

Moses M. Strong and Whiteside spoke against the resolution in particular, and against negro suffrage in general.

Moses M. Strong moved an amendment making negroes eligible to all offices in the state. He wished to make the article as obnoxious as he could.

Mr. Noggle should vote for the amendment, that the people might fairly understand what they were voting for, though he considered the whole thing included already.

Mr. W. Chase should vote for the amendment and for the resolution, amended, or not. He called for the previous question, which was sustained.

Mr. Hackett wished to explain the reasons that would govern him in his vote upon that question. It would be recollected by the convention that he had heretofore voted against extending the right of suffrage to the blacks, and he was still opposed

to it, and was personally opposed to the submission of the question to the people for the reason that he had no belief that one-tenth part of the electors would vote for it, and not that he had any distrust of the people. He should vote for the resolution because he was virtually instructed so to do and because he believed a very respectable portion of his constituents desired it.

The question being on the amendment of Moses M. Strong, it was adopted; ayes, 60; noes, 39. The resolution was then adopted by the following vote [roll call No. 152].

Before the vote was announced by the President, Mr. Magone obtained leave to change his vote. Moses M. Strong also obtained leave to change his vote. The reason in both cases being understood to be to enable either of those gentlemen to move a reconsideration. The President then announced the vote, ayes 54; noes 49.

Moses M. Strong moved a reconsideration of the vote and a call of the house, pending which the convention adjourned till two o'clock.—*Express,* Dec. 1, 1846.

TWO O'CLOCK, P. M.

Resolution No. 2, relative to colored suffrage, was then taken up. And the question being on the motion of Moses M. Strong to reconsider the vote ordering the said resolution to be engrossed, Mr. Magone moved a call of the convention, which was ordered, and Messrs. Agry, Hiram Barber, Beall, Bennett, Berry, Brace, Burt, Clark, Clothier, Coombs, Edgerton, Giddings, Goodrich, James H. Hall, Hays, Hicks, Holcombe, Huebschmann, Manahan, Parkinson, Parsons, Prentiss, Geo. B. Smith, Steele, Turner, Vineyard, and Whiteside, reported absent.

Mr. Meeker moved that leave of absence be granted to Mr. Huebschmann. Leave was granted.

Mr. Elmore moved that all further proceedings under the call be dispensed with, which was disagreed to. And a division having been called for, there were 15 in the affirmative, negative not counted.

Mr. Judd moved that the convention adjourn until Friday morning next, at nine o'clock. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 4, negative 85; for the vote see Appendix I, roll call 154].

Moses M. Strong moved that all further proceedings under the call be dispensed with, which was agreed to. And a division having been called for, there were 42 in the affirmative and 25 in the negative.

Mr. Dennis moved the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question then recurred on the motion of Mr. Strong to reconsider the vote on ordering the said resolution to be engrossed. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 49, negative 55; for the vote see Appendix I, roll call 155].

No. 20, "Article to abolish death as a capital punishment," was taken up and read a third time when Mr. Elmore moved that the further consideration of said article be postponed until Monday next. Moses M. Strong demanded the previous question, which was seconded.

Mr. Mills moved that the convention adjourn, which was disagreed to. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on the passage of the said article and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 30, negative 68; for the vote see Appendix I, roll call 156].

The article abolishing the death penalty then came up on its third reading.

Mr. Ryan considered the death penalty a hindrance to justice. He had rarely met with a lawyer who did not agree with him. He called to the minds of gentlemen the cases of Robinson, the murderer of Ellen Jewitt, and of Tirrell, in Boston, both of whom were acquitted in spite of an almost unanimous belief of their guilt. He believed that the penalty is an escape to the murderer in four cases out of five; and he believed this the honest working of a commendable and human feeling. He wished gentlemen could have been in his county with him to have seen the feeling which stirred that entire and generally quiet people. He believed that if it were possible there could be a capital conviction in every county, there would come up such a voice against capital punishment that there would not be one vote in its favor.

Mr. Noggle had voted for this bill in the previous stages, though without the intention of voting for it on its final passage. He should vote against it.

Mr. Tweedy thought the matter should be left to the legislature. He had once been inclined to favor the abolition of capital punishment, but the more he thought of it the more he

doubted the expediency. As for the objection of the gentleman from Racine (Mr. Ryan) of the difficulty of obtaining convictions, he thought that could be easily obviated by dividing the crime of murder into two or three degrees, the jury in all cases to judge of the degree.

After a somewhat lengthy debate the previous question was ordered, and the question taken on the final passage, which was decided in the negative by the following vote [roll call No. 156]. —*Express,* Dec. 1, 1846.

The next business was the article abolishing the punishment of death, which came up for its final passage.

Mr. Ryan addressed the convention in favor of the article.

Mr. Judd replied at length to the argument of Mr. Ryan.

Mr. Magone spoke in favor of the article.

Mr. Noggle had voted for the article before, but he had not intended to vote for it on its final passage. It would be impolitic at our present condition to abolish it. But he thought it was a more appropriate matter for the legislature.

Mr. Kellogg thought it was going too far to provide that no person could be pardoned or commuted in any way, under any circumstances.

Mr. Ryan explained that the objections of his colleague could be entirely obviated by legislative action.

Mr. Tweedy had thought the matter had been disposed of. There were a great many objections to the present bill.

G. B. Smith spoke in favor of the article and against capital punishment.

Mr. Burchard should vote against the bill. He thought that if a man should deliberately take life he was not fit to live. He thought the state of society would not be safe if the death penalty was abolished.

W. Chase said that the argument that we had no place to put a man in and should therefore take his life had no weight with him.

Mr. Magone could not subscribe to the sentiments of the gentleman from Waukesha (Mr. Randall).

Mr. Randall had long held the firm conviction that he who shed man's blood by man shall his blood be shed.

Mr. Harkin should vote against the bill. He did not believe in lumbering up the constitution. It was a proper subject of legislation.

Mr. Drake spoke at some length against the report.

Mr. Kellogg was fully satisfied with the explanation of his colleague. He thought, too, that it would work strong objections at the ballot box to the constitution.

W. R. Smith had given his views on this question several times. He was still in favor of abolishing capital punishment. He spoke against the specific provisions of the article.

Mr. Elmore wanted to reach the article in a way to amend it. He would move to postpone it till Monday next.

Mr. Strong of Iowa called for the previous question, which was sustained.

The question was then taken on the final passage of the article, as follows [roll call No. 156].—*Democrat,* Nov. 28, 1846.

Mr. Tweedy moved to reconsider the vote by which the convention refused to pass the said article. Mr. Magone moved to lay the said motion on the table, which was disagreed to. The question was then put on the motion to reconsider and was decided in the negative.

On motion of Mr. Hackett the convention adjourned until seven o'clock, P. M.

SEVEN O'CLOCK, P. M.

The convention resolved itself into committee of the whole for the consideration of No. 16, "Article on municipal corporations," Mr. Magone in the chair. And after some time spent therein the committee rose and by their chairman reported the same back to the convention with an amendment.

And the question having been put on concurring in the amendment reported by said committee, which was to add a new section, as follows: "Section 4. The legislature shall have power at all times to alter, amend, or repeal any act of incorporation hereafter passed, whether such act shall be by general or special law. But no special act of incorporation shall be repealed, except by a vote of two-thirds of each house of the legislature, unless in pursuance of a right of repeal reserved in the act creating such incorporation," it was decided in the affirmative. The said article was then ordered to be engrossed for a third reading.

EVENING SESSION

The convention went into committee of the whole on the report of the select committee, Mr. Magone in the chair.

Mr. Strong of Racine offered an amendment by adding a new section which provided that the legislature shall have power to repeal all charters, whether granted by general laws or special acts.

Mr. Tweedy moved to amend the amendment by adding that all corporations created by special acts should not be repealed except by a two-third vote unless by a special clause in the act allowing a majority to repeal.

The amendments were discussed by Messrs. Strong, Tweedy, Gray, and W. Chase.

The amendment to the amendment was carried, and the new section was adopted.

The committee rose and reported the bill back to the house, and the amendments were concurred in, and the article was ordered to its third reading.—*Democrat*, Nov. 28, 1846.

Municipal Corporations

Marshall M. Strong introduced a separate section, that the legislature have power to alter, amend, or repeal any act of incorporation hereafter passed, whether by special or general laws.

Mr. Gray hoped the section would not prevail; he feared it would deter capitalists from investing among us.

Mr. W. Chase hoped it would prevail. He wanted this principle declared in the constitution—a principle which he considered right.

Mr. Tweedy moved to amend as follows by adding, "but no special act of incorporation shall be repealed, except by a vote of two-thirds of each house of the legislature, unless in pursuance of a right reserved in the act." He (Mr. Tweedy) could not agree with the gentleman from Racine (Marshall M. Strong) that there was no danger to be apprehended from the legislature on this subject. He did fear that in times of party

excitement a majority of the legislature might be found willing to do injustice to the men who had made investments. He did not fear this danger if two-thirds were required. He said that though the gentleman from Racine (Mr. Strong) might not fear any danger, he (Mr. Tweedy) knew that eastern men, whose capital we wished to get invested in our state, did fear. They have not confidence in the western states.

Marshall M. Strong was pleased with the candor with which this subject had been treated. He then stated that New York had the same provision in all her charters, and that the state of Michigan had reserved this same right when she sold her Central Railroad to Boston capitalists.

The amendment of Mr. Tweedy was then adopted, and the section as amended passed.

The committee then rose and reported the article back to the house. The amendment was concurred in, and the article ordered to be engrossed.—*Express,* Dec. 1, 1846.

Mr. Burchard moved to suspend the rules in order that the several resolutions pending might be now taken up and acted upon by the convention, which was agreed to.

The resolution relative to the article on banks and banking was then taken up, when Mr. Baird moved that the further consideration thereof be postponed until Monday next, which was agreed to.

Resolution No. 2, of November [twenty-third] was then taken up, and on motion of Mr. Magone was referred to the committee on miscellaneous provisions.

The resolution instructing the committee on the judiciary to inquire into the expediency of declaring in the constitution whether the common law or what parts thereof shall be adopted as the law of the state of Wisconsin was then taken up and adopted.

The resolution relative to the printing of the journal of the convention was then taken up, when A. Hyatt Smith moved that the same be laid upon the table, which was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 44, negative 34; for the vote see Appendix I, roll call 157].

The resolution relative to going into committee of the whole on the report of the committee on revision and adjustment was taken up, when Mr. Kellogg moved that the further consideration of the same be postponed until Monday next, which was agreed to.

The resolution to amend the eighteenth standing rule was then taken up, when A. Hyatt Smith moved that the same be laid on the table, which was decided in the negative. And a division having been called for, there were 17 in the affirmative, negative not counted.

Marshall M. Strong moved that the further consideration of said resolution be postponed until Monday next.

Mr. Parks demanded the previous question.

A. Hyatt Smith moved a call of the house, which was seconded and Messrs. Agry, Berry, Bowker, Clark, Coombs, Dunning, Edgerton, Granger, Green, Hill, Holcombe, Inman, Judd, Phelps, Rankin, Ryan, John Y. Smith, Steele, Moses M. Strong, Topping, and Turner reported absent.

Mr. Lovell moved that the convention adjourn until tomorrow at two o'clock, P. M., which was disagreed to.

Mr. Dennis moved that all the members reported as absent be excused from their attendance.

Marshall M. Strong moved that the convention adjourn, which was disagreed to. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 30, negative 46; for the vote see Appendix I, roll call 158].

Mr. Magone moved that the convention do now adjourn, which was agreed to. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 46, negative 37; for the vote see Appendix I, roll call 159].

So the convention adjourned.

Thursday, November 26, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Mr. Baird asked that leave of absence for the remainder of the session be granted to Mr. Agry. Leave was granted. Mr. Steele asked that leave of absence be granted himself and Mr. Elmore. Leave was granted.

Marshall M. Strong introduced the following resolution, which was read, to wit: "*Resolved*, That the rules be amended by adding the following rule: After the report of the committee on revision shall have been received and the amendments reported by them shall have been acted upon the report shall be taken up and read, section by section, and if any ten members shall desire that a vote should be taken upon any section, the president shall put the vote upon the adoption of such section, and if a majority shall vote against its adoption, then such section shall be stricken out of the constitution. If any section should be stricken out so that the adjoining sections shall need amendment, then the constitution may be referred to a select committee to make amendments to conform to the vote of the convention. After such amendments shall have been concurred in, the question shall be on ordering the constitution to be engrossed for a third reading, and after the same shall have been engrossed, then the question shall be on its final passage."

The resolution introduced by Mr. Noggle on the twenty-fourth instant, relative to amending the rules, was taken up, when Mr. Noggle moved that the consideration thereof be postponed until tomorrow, which was agreed to.

The resolution introduced by H[iram] Brown on the twenty-fourth instant, relative to printing the articles that have passed, was taken up. And the question having been put on the adoption of the same, it was decided in the affirmative. And a division having been called for, there were 43 in the affirmative, negative not counted.

The resolution introduced by Mr. Magone on the twenty-fourth instant, relative to adding a new section to the schedule, was taken up, when Asa Kinne moved that the same be laid upon the table. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 60, negative 27; for the vote see Appendix I, roll call 160].

Mr. Magone introduced the following resolution, which was read, to wit: "*Resolved*, That the following section be made a part of the constitution and added as a section to the schedule:

" 'Section —. No member of this convention shall hold any office of honor, trust, or profit created by this constitution herewith sub-

mitted, for ten years next succeeding its adoption: *Provided,* That the disfranchising clause be applied only to those who vote for the adoption of the resolution.' "

Mr. Judd introduced the following resolution, which was read, to wit: "*Resolved,* That the following section be adopted as a part of this constitution:

" 'Section —. The right of the people to transact any and all legitimate business, not inconsistent with public morals, shall never be restrained; nor shall any law be passed restricting the right of the people of this state from freely exercising the privilege of any lawful avocation or business whatever, or from buying or selling any of their commodities, goods, or other property; nor shall they be restrained from receiving any security or securities which they may think proper to receive for the same; and no penalty shall ever be enacted by the legislature prohibiting the people from paying or receiving in payment for any such goods or other property any promissory note or other evidence of debt, or any article or articles which they may agree to receive.' "

Hiram Barber introduced the following resolution which was read, to wit: "*Resolved,* That Article No. 1, on banks and banking, be submitted to the electors of this territory at the same time this constitution is submitted to them for their approval, and that it be voted on as a distinct proposition. There shall be a separate ballot box kept by the inspectors of election, and every voter entitled to vote for the adoption of this constitution shall be permitted to vote for or against the said article No. 1, on banks and banking. Tickets shall be prepared having on them written or printed, or partly written and partly printed, the words 'Against the article on banks and banking,' or 'For the article on banks and banking' and if a majority of all the votes given on that subject be for the article on banks and banking, then the said article No. 1 shall be a part of this constitution. But if a majority of all the votes given on that subject shall be against the said article, then it shall not be a part of this constitution."

Mr. Parks moved that the rules be suspended for the consideration of the resolution introduced by Mr. Magone, which was agreed to.

Mr. Hays moved to adjourn until nine o'clock tomorrow morning, which was disagreed to.

Marshall M. Strong objected to the resolution. And the question having been put, "Shall the resolution be rejected?" it was decided in the affirmative.

Mr. Magone's resolution, making a part of the schedule an article incapacitating delegates to this convention from holding office in this state for two years after the adoption of the constitution, was then laid on the table; ayes 60, noes 27.

Mr. Magone did not wish to trouble the convention, but he desired a direct vote on the proposition; therefore he again introduced the same resolution.

Mr. Parks moved a suspension of the rules for considering the same now. Carried.

It being intended as an article of the constitution, it was read the first time and rejected.—*Express*, Dec. 1, 1846.

Mr. Dennis gave notice that on some future day he would move a reconsideration of the vote or votes by which the present rules or either of the rules of this convention were adopted, and also that on Monday next, or some succeeding day, he would move to reconsider the vote by which the amended rules of this convention were adopted on the twenty-first day of October last, and also the vote by which the rules of this convention were adopted on the sixth day of October last.

It being ten o'clock, A. M., Mr. Baird moved that the convention take a recess until two o'clock, P. M., the day having been appointed by the executive of the territory as a day of thanksgiving.

Mr. O'Connor moved that the convention do now adjourn. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 39, negative 57; for the vote see Appendix I, roll call 161].

The question then recurred on the motion of Mr. Baird. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 50, negative 48; for the vote see Appendix I, roll call 162].

So the convention took a recess until two o'clock, P. M.

A motion to adjourn till tomorrow (today being Thanksgiving) was then put and lost; ayes 39, noes 57.

Mr. Baird moved that the convention adjourn till two o'clock. After considerable debate on the length of time which respect to the governor required this body to adjourn, the question was taken and carried, ayes 50, noes 48.—*Express*, Dec. 1, 1846.

TWO O'CLOCK, P. M.

Mr. Phelps moved that the convention do now adjourn. Mr. Baird called for a division, and also for the ayes and noes, neither of which were put. And the question having been put on the motion of Mr. Phelps, it was decided in the affirmative.

So the convention adjourned.

At two o'clock the convention met, the President calling Moses M. Strong to the chair.

A motion being made to adjourn, the question was put, and (notwithstanding repeated calls for ayes and noes by Mr. Baird and others, to which the Chair paid no regard) the convention was declared adjourned.—*Express,* Dec. 1, 1846.

Friday, November 27, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read and corrected.

Mr. Hunkins, from the committee on engrossment, reported No. 16, "Article on municipal corporations," as correctly engrossed.

Wm. R. Smith introduced the following resolutions, which were read, to wit: "*Resolved,* That the secretary of the convention be hereby directed to deposit in the office of the secretary of the territory at Madison the constitution of the state of Wisconsin, and all petitions, memorials, reports of committees, manuscript journals, and manuscript minutes of the committee of the whole, and all other records of the convention.

"*Resolved,* That the engrossed constitution shall be signed by the members of the convention in the order of the counties which they respectively represent, and by the officers thereof, on the —— day of December instant, at —— o'clock, A. M., in convention, and that the following certificate precede the signatures:

" 'We, the undersigned members of the convention to form a constitution for the future state of Wisconsin, to be submitted to the people thereof for their adoption or rejection, do hereby certify that the foregoing is the constitution as agreed to by the convention.

" 'In testimony whereof, according to the act of the legislature in that case made and provided, we have hereunto set our hands at Madison, this —— day of December, A. D., 1846.'

"*Resolved,* That 10,000 copies of the constitution be printed for the use of the members of the convention.

"*Resolved,* That 500 copies of the journal of the convention be printed and half bound, and that the same be distributed as follows: To each of the delegates, one copy. To the president of the United States, the heads of departments, including the commissioner of Indian affairs and the commissioners of the general land office, each, one copy. To the executive of each of the United States, one copy. To the secretary of the Senate, and the clerk of the House of Representatives of the Congress of the United States, for the use of the houses of Congress, each, one copy. To the Congressional Library, five copies. To the governor, secretary, and the judges of the supreme court of the territory of Wisconsin, each, one copy. To the clerks of the courts of the organized counties in this territory, for the use of the respective counties, each, one copy. To the territorial library, twenty-five copies. The remainder of the copies shall be deposited in the territorial library, subject to such distribution as may hereafter be directed by law."

Mr. Burt introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on miscellaneous provisions be instructed to inquire into the expediency of embodying in their report

a provision prohibiting the legislature from appropriating any public money for the payment of any clerical service, or to any clerical office whatever."

The resolution introduced by Mr. Noggle on the twenty-fourth instant, relative to an amendment of the rules, was taken up, when Mr. Noggle moved that the consideration of the same be postponed until tomorrow, which was agreed to.

The resolution introduced by Marshall M. Strong, on yesterday, relative to amending the rules, was taken up, when Mr. Baker moved to amend by inserting after the word "constitution," in the eleventh line, the following: "And if —— members shall request that any section shall be amended, or that a new section shall be adopted, the question shall be put upon such proposed amendment or new section, and if adopted by a vote of the majority, the same shall become a part of the constitution"; and also to insert after the words "stricken out," in the eleventh line, as follows: "or amended or a new section added."

A. Hyatt Smith moved to amend the amendment by filling the blank with the words, "a majority of the." And pending the question thereon, the morning hour expired. The said resolution was laid over until tomorrow.

A. H. Smith wished to amend by requiring a majority to wish this direct vote to amend instead of twenty.

Mr. Baker modified his amendment by striking out "twenty" and leaving a blank. A question of order then arose on the majority required to adopt this new rule.

Moses M. Strong contended that it was to amend, and the rules required a two-thirds vote.

The President decided that as it was to add a new rule and not to amend any rule now existing it did not require a two-thirds vote.

Moses M. Strong took an appeal from the decision of the Chair, pending which the morning hour expired and the orders of the day were called.

Mr. Dennis moved to suspend the rules in order for the further consideration of the resolution (of Marshall M. Strong) now.

Mr. Magone hoped his friend would not press his motion. He (Magone) desired to proceed to the business of the day and not to listen longer to low pettifogging on points of order.

Moses M. Strong—Will the gentleman from Milwaukee designate for whom he means his charge of "low pettifogging?"

Mr. Magone—The remark was general, but if the coat fits any member, he may put it on.

Moses M. Strong thought we had enough of these "general" remarks. He wished the gentleman would stand up and say what he means. He had no doubt he meant him (Moses M. S.) but he should not make the application; if he (Magone) did mean him (Strong) he (Strong) hoped he would have the manliness to say so.

Magone—I did mean you.

Moses M. Strong then threw his cane across the hall at Magone, which struck the column near Magone's seat.

Before the recess, Moses M. Strong rose in his place and said —Mr. President: I think an apology is due from me to the convention for the violation of its order and decorum into which I was betrayed this morning by a temporary excitement of my passions, occasioned by the remarks of the gentleman from Milwaukee. I therefore take pleasure in making such apology to the convention.

Mr. Magone then rose and said: Mr. President—An apology has been made by the gentleman from Iowa. Perhaps the convention would deem one due from me. If I have violated the rules of the convention, I would make a sincere apology to the convention, but none whatever to the member who forced me into the position which called out the objectionable remarks. —*Express*, Dec. 1, 1846.

The convention then resolved itself into committee of the whole for the consideration of articles Nos. 3, 11, and 17, Marshall M. Strong in the chair. And after some time spent therein, the committee rose and by their chairman reported progress thereon, and asked leave to sit again. Leave was granted.

On motion of Mr. Judd the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

The convention resolved itself into committee of the whole for the further consideration of articles Nos. 3, 11, and 17, Marshall M. Strong in the chair. And after some time spent therein the committee rose and by their chairman reported articles Nos. 3 and 17 back with amendments to each, and article No. 11 without amendment.

No. 3, "Article on eminent domain and property of the state," was taken up. And the question having been put on concurring in the amendment of the committee of the whole, which was to insert after the word "states," in the third line from the bottom of the first page, the words "territory or territories," it was decided in the affirmative. The said article was then ordered to be engrossed for its third reading.

No. 11, "Article relative to the act of Congress for the admission of the state," was taken up, when Mr. Prentiss moved to amend the first section by inserting between the words "United States" and "approved," in the fifteenth line, the words "entitled An Act to appropriate the proceeds of the sales of the public lands, and to grant preëmption rights," which was agreed to. The said article was then ordered to be engrossed for its third reading.

No. 17, "Ordinance relative to the boundaries of Wisconsin," was taken up. And the question being on concurring in the amendments of the committee of the whole thereto, a division of the question was called for.

The question was then put on concurring in the first amendment of the committee of the whole, which was to strike out the letter "a," in the word "Wisconsan," wherever it occurs, and insert the letter "i," and was decided in the affirmative.

The question was then put on concurring in the second amendment of the committee of the whole, which was to strike out the word "shall," where it first occurs in the eighth line of the second section, and insert the word "may," and was decided in the affirmative.

The question was then put on concurring in the third amendment of the committee, which was to insert after the word "agree," in the second section, the words "in case the legislature shall deem it expedient," and was decided in the affirmative.

Mr. Ryan moved that the said article be recommitted to the committee on the name and boundaries of the state, with instructions to report the northwestern boundary of this state on the boundary line between the United States and Great Britain. And pending the question thereon, Mr. Judd moved that the further consideration of the said article be postponed until tomorrow morning, which was agreed to.

[The] convention then went into committee of the whole on the boundaries, eminent domain, division of the state, and the act of Congress for the admission of the state.

The article on eminent domain and on the act of Congress was passed without amendment.

Mr. Holcombe proposed an amendment to the article on boundaries by striking out the clause agreeing to the boundaries prescribed by Congress and inserting in place thereof the following, as the dividing line of the territory:

"It should commence in the channel of the Mississippi River, directly south of the highest peak on Mountain Island, which, according to Nicollet's map, is about where the forty-fourth degree of latitude crosses the Mississippi; thence due north a half degree; thence on a direct line (northeasterly) to the headwaters of the Montreal River, striking said headwaters at the same place as marked upon the survey made by Captain Cram; thence down the main channel of Montreal River to the middle of Lake Superior."

General Smith was opposed to the amendment. He feared it might endanger the adoption of the constitution by the people and its acceptance by Congress. He would prefer it should be made a distinct proposition to be submitted to Congress.

Mr. Baird was opposed to the amendment, as giving up that portion of Michigan which he considered as justly belonging to us. He was also opposed to it as striking the Mississippi too low, and he was informed that the people of Crawford County were opposed to it. He also feared it would endanger the adoption of the constitution.

Moses M. Strong would go for submitting it as a distinct proposition to Congress. He preferred the line proposed by the gentleman from St. Croix (Mr. Holcombe) to that of Congress, but he preferred that of Congress to leaving the matter open.

Mr. Baker objected to giving up so great a portion of valuable territory. He could not see the consistency of gentlemen who complained of being robbed on the northeast by Michigan and on the south by Illinois and who were now willing to give away a greater portion than both of these.

Mr. Holcombe having discovered that his amendment was more directly clashing with the act of Congress than he had supposed, by leave, withdrew it, giving notice that he would offer it again as a proviso that Congress might act upon.

The second section, being thought to make it binding on this state to commence immediate suits against the states of Illinois and Michigan, it was amended as to read, the question "may" instead of "shall" be referred to the Supreme Court of the United States. Also, to make the state agree to commence the

suits immediately, "in case the legislature shall deem it expedient."

Mr. Brace then offered an amendment to run the line from the Indian village on the St. Louis River west to the Mississippi.

Mr. Doty didn't think it best to divide at all, unless we left enough on the north to make a state.

The question was taken, and the amendment lost.

The committee rose, the convention concurred in the amendments, and the article was postponed to allow Mr. Holcombe to introduce a new boundary. * * *

THE BOUNDARIES OF WISCONSIN

(Remarks of Mr. Holcombe, November 27, 1846)

I find, sir, in approaching the subject of state boundary, the importance of it did not so clearly discover itself to my mind, until I came to investigate the bearing which it has upon communities, the course of trade, and the several branches of state and national government. The territory of Wisconsin may be regarded, so far as it lies within the reach of steam navigation, as being the most favored part of our whole country. Its natural resources of soil, mineral, and lumber are more abundant and varied than that of any other one portion of our whole country; in addition to which the climate is highly favorable, and its commercial advantages not surpassed, having access to the Great Lakes on the north, and, on the west, to the Mississippi, besides an internal communication, by the waters of Wisconsin River, to near the center of the territory from east to west, and from reports made of a practical survey may be continued entirely to Lake Michigan on the east. And I may add that another internal communication now exists by means of the waters of the St. Croix, a tributary of the Mississippi, to within (as has been recently estimated) about eighty miles of the navigable waters of St. Louis River, emptying into the west end of Lake Superior, these points—one of which being the extreme westerly point of the navigation of the great

Northern Lakes, and the other the extreme northerly point of the navigation of the waters of the great Mississippi—between which is at no very distant day to become another thoroughfare of internal communication uniting the northern and southern commerce of the nation. With these two belts of internal communication before me, separated from each other two or three hundred miles and, as it were, binding together the extreme points of the great chains of navigation on the north and on the south, and with all the other resources in view, I can come to no other conclusion than that the whole of Wisconsin will one day become the most densely populated portion of the western states.

It may not be out of place, Mr. Chairman, for me here to say something of that portion of our territory which I have the honor here to represent. Situated as it is, above, below, and about the head of steam navigation on the Mississippi River, it forms a common center for the business of all that country north and east of the Mississippi; and by means of the Lake and River St. Croix navigation penetrates the country to a point the most northward of any other, and is more permanent, as far as the head of Lake St. Croix, than even the Mississippi itself above the mouth of St. Croix. The business of that river and country thus far has been lumbering principally, and to that extent that two steamboats have been the past season engaged in that trade as regular packets from Galena and St. Louis. The country bordering on the east side of the Mississippi and above Lake Pepin, which is about thirty miles south of the St. Croix, is found to be well adapted to the pursuits of the farmer, a number of whom, from Maine and other eastern states, are settling in the vicinity of St. Croix, it being a prairie country, of good soil, and producing equal to any in this section—beautifully undulating, and interspersed with groves of oak timber, watered with the purest water. The health of the same surpasses that of the country more south. This kind of country, bordering on the east side of the Mississippi, is found for three hundred miles, following its meanderings above the mouth of St. Croix. The surface of the interior of the country towards Lake Superior becomes covered with

hard wood timber, mixed with pine, the soil of which varies according to the growth of the timber found upon it. Where the sugar-maple, lynn, and oak grows may be found as good soil as in any country, of which there is a good proportion; where the pine is mixed in with the hard wood, the soil is not as good; and in groves, where the pine exclusively grows, the soil is sterile and sandy; and there is a considerable portion of the country towards Lake Superior that might be termed barrens, covered with small pine, without undergrowth, and sufficiently open to drive a wagon through without chopping a road. The country about the sources of the streams is considerably wet and marshy, and in some parts abounding with small lakes. As the country approaches Lake Superior it is less fit for cultivation, but is supposed to be a mineral country, without as yet any positive proof to any extent. It is, however, a timbered country to the margin of Lake Superior and its tributaries, and along and near the latter the soil is good for agriculture. In all the country water power may be had to great extent, and emptying into Lake St. Croix are four mill streams with a fall of water of from ten to one hundred feet, and one of them has been compared to the Falls of the Genesee River at Rochester, New York, and as yet unoccupied.

I have, Mr. Chairman, gone into detail of the description of the more valuable part of Wisconsin lying south of a west line drawn from the west end of Lake Superior to the Mississippi River, and as far south as the Chippewa River or Lake Pepin; and I have done this, sir, that this honorable body in convention may have some kind of data to found an opinion upon as to the location of a line in equity to divide the territory of Wisconsin into two states, for I suppose the country in the southern part is sufficiently understood, so that with the partial description I have given and an examination of the maps an opinion may be made up by any gentleman nearly if not entirely correct on the subject before us.

The next question I propose to examine, Mr. Chairman, is the principle which is mainly to be kept sight of in establishing the bounds or limits of a state. State boundary, as I understand it, is fixing a limit within which the people of any

given territory may carry out the objects of state and national government, varying in size as commercial points may be necessary and the equal benefits of the government to be established shall warrant. In estimating the undisputed territory of Wisconsin it is supposed to have an area of near about 90,000 square miles; and by reference to the older states, computed by Malte Brun, it is found their average is about 33,000 square miles, each, and after deducting the six New England states the balance will average about 40,000 square miles, each; so that as far as territory is concerned we have yet undisputed sufficient, and I might say more than enough, for two states. And I will here remark that the great commercial advantages which the southern part has, with its variety of agricultural, mineral, and lumbering resources, renders it probable, and I might almost say certain, that it is to be ultimately the most densely populated country of all the western and southern states because its whole surface is contiguous to navigation. I mention this as a reason that this state should not be over an average size—that our state representation in Congress may be on a scale that is just and equitable when it shall have arrived at a more mature age. The line of division reported by the select committee includes within the limits of the state about ——— square miles of land and water, leaving a state about the size of Ohio, without the water of Lake Michigan, as nigh as I could ascertain by such maps as I could get access to. From the present seat of government to the extreme limits of the state on the north is a travel of about 250 miles, which is believed to be as far under the circumstances in which we are placed as is necessary for the state government [to] be represented or the judiciary extended. To go beyond this would be to impose a burden not only on the inhabitants in representing constituency here, but the state in maintaining a judiciary there. If there was a commercial point beyond the committee line necessary to secure for an outlet to the produce of this section of the country, then we should be highly censurable if we did not retain it; and although there is to the north to be found on the more westerly part of Lake Superior commercial advantages, yet it is not a necessary ap-

pendage to this state for any commercial purposes, and is only necessary for the reception of the trade in its immediate vicinity, and to which it naturally belongs.

And upon the same rule of reasoning which I have used in fixing the limits of this state the seat of government of the Lake Superior country should be in the vicinity of the St. Peter's River or St. Croix Lake. I mention the latter because there is steam navigation permanent to that place, and I mention the former because I am informed that the United States government contemplates establishing a territorial seat of government there. In either case the country immediately north of the committee line, viz., the county of Chippewa, may be represented by a travel of about one hundred miles; the county of La Pointe, two hundred miles; and the county of St. Croix, from twenty-five to fifty miles. The remote location of these counties from the present seat of government, varying in their distances from three hundred to five hundred and fifty miles, mail route, will continue to be as it has been a source of vexation and to a great degree destructive of the very end which a good government has in view. It would seem, therefore, to be unreasonable to include the Lake Superior country, simply to gratify a feeling of state pride, at the expense of the perpetual disadvantages and vexations that would unavoidably grow out of it.

There is another reason that may be given for the committee's line, and that is the particular curve of the territory about opposite the Mountain Island, making it about as natural to locate the dividing line where it is as to unite a right angle at the corner; besides, it takes the dividing ridge between the waters of the Chippewa and Black rivers, a natural division of the most broken and unfrequented country, and when so divided it leaves the state in the best shape it can be put. And the same may be said of the territory north and west, being something larger in its area, but considerably smaller in its susceptibility to cultivation and settlement, and much restricted in its commercial advantages.

I propose next, Mr. Chairman, to examine the merits of the northwest boundary, as fixed by the late act of Congress. It

will be recollected that that line is thus described: "thence up the main channel of said river (St. Louis River) to the first rapids in the same above the Indian Village, according to Nicollet's map; thence due south to the main branch of the St. Croix; thence down the main channel of said river to the Mississippi," etc. There are several objections to this boundary line, for it cures none of the evils to which I have just alluded, except so far as it leaves out of the state the population on the west side of the St. Croix. The first objection I shall point out is that it is so located as to cut off the country west of the St. Croix from any commercial point on Lake Superior (which is a most ungenerous act) and which point is one of great importance to that particular region of country. It is to it what Lake Erie is to Buffalo, and what Lake Michigan is to Chicago, and it is the only commercial outlet of that country eastward. Any gentleman can see this, Mr. Chairman, if he will but look at the map.

Another great objection to that boundary line is, after it strikes the St. Croix River, it continues down the main channel of the same, dividing the settlements and placing the inhabitants on the different sides of the river under different governments; the seat of the one being near by and the other far off; and both having concurrent jurisdiction on the river, and operating very unequally. The tendency of such a state of things is to alienate the interests of society, perplex the trade and business of the river, and retard the growth of the settlement; and this, Mr. Chairman, without any cause. If these things are to remain so, what use is it to declare in our bill of rights that all government proceeds from the people? Has this proceeded from the people? No, Mr. Chairman. They of St. Croix never knew anything about it; there was no consultation with them. I repeat it, sir, it is an ungenerous act to my constituents, and it is improper in itself. Shall an enterprising people be thus dealt with by Congress? No, Mr. Chairman; there ought not to be any gentleman here who would sanction such a course. But, sir, I believe that Congress and especially the Senate is composed of a magnanimous and high-minded people, and will do justly with any subject properly

represented to them; and therefore I shall ask the concurrence of this convention to adopt the line reported by the select committee, Congress consenting thereto, instead of the one mentioned in the late act fixing our northwest boundary.

It is unjust, Mr. Chairman, to curtail the political influence of the Northwest by crowding us into states so large as to render the benefits of state government in its administration burdensome, especially where the territory is of such shape as not to admit of it. We will give our reasons for what we ask, and they shall be founded in justice. Do you say, Mr. Chairman, that we in the Northwest must be cut off from Lake Superior? No, Mr. Chairman. Do you say we must not front on the Mississippi below St. Croix? No, Mr. Chairman. Do you say that we must be cut in two as a community? No, Mr. Chairman. And that, too, without notice? No, sir! You will not give your assent to any such proceeding. The time is coming when we shall want our political influence in the councils of the nation; and what matters it if we should have our twenty or thirty members of Congress in the lower house, and be overruled in the Senate? Sir, the time is coming when our great agricultural states in the West must stand shoulder to shoulder —not, sir, that they are to have any particular protection, but that they may resist the encroachments upon their rights, and the restrictions of free trade. Free trade, sir, is what the farmers of the West want, for they are to hold the graneries to supply not merely this country, but the world; and it has been admitted on the floor of parliament that the Americans are to be the butchers and bakers for other nations.

These considerations, Mr. Chairman, are weighty to my mind, and will conflict with other national interests, and are to be a bone of contention for years to come in the councils of our nation. And when I examine the schedule of the size of the different states of the Union, there is a fearful odds in a political point of view given to the manufacturing states, in their representation in the Senate. Therefore, it is important to come into the Union in every respect equal when practicable.

With these considerations, Mr. Chairman, I should be wanting in sagacity should I concur in any boundary on the northwest extending beyond the line reported by the select committee; and with these views I shall for the present leave the subject.—*Express,* Dec. 1, 1846.

Mr. Dennis, from the committee on expenses, by leave, made the following report, to wit:

"The committee on expenses, to whom was referred the account of S. S. Keyes for chairs furnished the convention, make the following report: '*Resolved,* That S. S. Keyes be allowed the sum of $114 for chairs furnished for the use of the convention, and that the treasurer of the territory be and he hereby is directed to pay the same.' "

By the unanimous leave of the convention the said resolution was taken up and adopted.

On motion of Mr. Baird the convention took a recess until seven o'clock, P. M.

SEVEN O'CLOCK, P. M.

The convention resolved itself into committee of the whole, for the consideration of No. 31, "Article on education, schools, and school funds," Warren Chase in the chair. And after some time spent therein the committee rose and by their chairman reported progress on said article, and asked leave to sit again. Leave was granted.

On motion of Mr. Ryan the convention adjourned.

The convention went into committee of the whole on schools and school funds.

Mr. Dennis offered as a substitute for the first section the following: "The supervision of public instruction shall be vested in such officers as shall hereafter be created by law."

Mr. Graham said, if the objection of the gentleman is that the superintendent is made elective, he was not at all particular as to the mode, but he considered that officer indispensable. There could be no uniform system without him. There must be an annual report of the state of schools throughout the state. There could be none, said he, so satisfactory as from a man whose entire business it is to visit and know of all the schools. He considered it a matter of the greatest importance that the legislature have all this information. He mentioned Michigan, who had such a provision in her constitution.

[Mr. Judd] took the ground (as it appeared to us) that no improvement could be made, or, indeed, was necessary in our common school system; that the plan of superintendence advocated by gentlemen was not adapted to this territory; that it would be a mere frittering away of the school fund to appropriate any of it to the payment of a salary to a state superintendent; and that all that was wanted to have good schools was money to pay teachers and erect schoolhouses. He also believed that town libraries, which gentlemen thought were productive of much good, were town nuisances—that the books were merely taken home and read once or twice by children and their parents, and then left to moulder upon the shelves. He believed that all this paraphernalia of state and county superintendents, new plans of school houses, etc., were only so many leaches to absorb the fund, without conferring any essential benefits upon the people or the cause of education. He informed the convention that he spoke from experience and observation in regard to these matters.

* * *

Mr. Drake thought that the system was not needed at present and would be more expensive than prudence would justify. He thought the duties for a time might be done by the secretary of state or some other officer already provided for, leaving to the legislature to provide for this office when the time came.

Marshall M. Strong moved to amend the original section by inserting a salary of $1,200 per year. He thought we needed him now to travel over the state, organize the system, and awaken the people to the importance of this subject—an importance which, he said, all of us are frequent to allow with the lips, but seldom really feel.

Mr. Ryan said that the committee had purposely left out the salary from the article, choosing to leave that to the legislature, that they provide according to the duties.

Mr. Tweedy spoke of the importance of fixing the system in the constitution. He said that he had been informed by the able superintendent in Michigan that unless the system had been there fixed by the constitution, it had been abandoned.

Said he, it takes time; if left to the legislature to make such provisions as they shall from time to time see fit, he feared it would completely fail. He spoke of Connecticut, where there had been a superintendent chosen one year, continued in office one year more, and the next year the whole thing given up. Said he, the system must be permanent; its vitality depends upon its permanency. You might as well, aye, better, trust your legislature every year to appoint your judges, fix your circuits, to establish your codes, as to leave it to them to manage your schools. He considered the school system of importance, as much before any other system we have had to do with, even the judicial, as that before the most simple. If it is not done now, said he, there will have to be twice the effort to raise the public mind to the importance of the thing. And then they will despair too soon—they cannot wait. If they do not see the most brilliant results in two or three years, they will give up the system. As he had said before, it takes time. Said he, we must not leave it to the legislature; if anything is to be settled here, it is this.

The debate was continued till a late hour, when the committee rose and the convention adjourned.—*Express,* Dec. 1, 1846.

Mr. Tweedy, in reply, was utterly astounded by the remarks of the gentleman preceding him. He had supposed there was not a member on that floor who could utter sentiments so at variance with the genius of our free institutions. Why, if we are to believe the gentleman, that there is no room for improvement, that in fact we must retrograde instead of advance in the cause of education, it were better that we go back to monarchy—to the principle that the few shall rule the many. His only hope for the stability of republican institutions was in the education of the masses. If they are educated as they should be, we can look forward to the time when all our citizens will be capable of occupying the highest and most responsible stations—we can look to a bright and unclouded future. For his part, he considered that this system of superintendence was the foundation, the life of progressive education. He believed that a constant and vigilant watch should be

kept over our public schools; that a state superintendent was necessary, a man of eminent learning and ability, who should devote his whole time and attention to education in our state—instituting normal schools for the education of teachers, appointing local superintendents, and visiting every county, and if possible every school-district, to impress upon the minds of the people the importance of the subject. The gentleman from Dodge (Mr. Judd) had said that libraries were town nuisances, and that children were in the habit of taking the books home and reading to their parents. He thanked the gentleman for the latter information; he had not heretofore known that this was the practice. No place was better than home to acquire knowledge, where parents and children learn together. He hoped nuisances of this kind would multiply, until books of instruction would be in the hands of every parent and child, and read and commented upon.

Mr. Judd rose and said that Mr. Tweedy had grossly misrepresented him, stoutly denied that he had said libraries were town nuisances, and said that he belonged to a party and always had belonged to a party that believed in the diffusion of knowledge and in the competency of the people to govern themselves, and that was the the Democratic party; but, said he, there is a small remnant of a party that had for one of its cardinal doctrines the concentrating the power of government in a few, and although he did not wish to stir up the recollections of the past, yet to that party the gentleman (Mr. Tweedy) belongs.

Such is, in substance, some of the remarks of Mr. Judd, the intelligent and dignified member from Dodge, on the subject of education. The sinister allusion, made use of by him, to the effect that the Whig party was in favor of the power of government being vested in a few, comes with rather an ill grace from one who was but last year defeated as a Whig candidate for the house of representatives, and who is now loud-mouthed in his professions of attachment to a party, the head and front of which has usurped power and plunged the nation into a war of conquest and aggression. He wishes, however, to become the head of the Tadpole party, which accounts for his devious

course; but this would be an unfortunate occurrence for the rank and file, inasmuch as (judging from his former transformation) it would be an age before he would permit them to merge into "regular" bullfrogs, and he would then be superannuated himself and unable to bellow. We therefore advise him to submit with becoming fortitude to the stern decree of fate for the good of the party and wag away lustily in his present position—the tail.—*Express*, Dec. 1, 1846.

SCHOOLS AND THE SCHOOL FUNDS

(Remarks of Mr. Bevans, in committee of the whole, November 27, 1846)

Mr. Chairman: The importance of the subject now being considered by the committee added to the ardent desire I feel for the successful termination of the deliberations of the committee in regard to this article will, I hope, be considered a sufficient apology for my trespassing at this late hour upon the time of this body.

However successful we may be in our exertions to arrive at the best conclusion of our labors on other subjects, if we are unsuccessful in this attempt to incorporate in the constitution of the state suitable and ample provisions for the education of the children of the state, we shall have failed to meet the just and enlightened expectations of our constituents, and on our return to them may expect at their hands that which a good public servant would most desire to eschew, viz., their disapprobation. Other articles of great importance and questions of moment have hitherto been entertained by the convention; yet in my judgment, sir, all other questions dwindle into comparative insignificance, if you contemplate them in their bearings upon the prosperity of the state, compared with the influence upon the future hopes and prospects of the inhabitants of Wisconsin that are to ensue from the deliberations of this body in connection with the article on schools and school funds. If this convention pursue an enlightened and liberal policy, as regards this question, whatever else it fail to accomplish, I shall entertain no fears for the future greatness and happiness

of our people. If, however, our labors terminate with no other provision for public schools than a simple and useless declaration that "learning shall forever be encouraged in this state," if we neglect to make it an imperative requisition upon our legislature to give us a system of public schools according to the most approved plan—to provide for the election of a state officer whose duty it shall be to superintend this first interest of the state—to provide ample funds for accomplishing this great end, to wit: the instruction of our youth—I say, if these great interests are disregarded by this convention, we shall present to the world the mortifying spectacle of an entire failure in having attempted to erect a political superstructure without a foundation on which to build.

In the defeat of the bank article the friends of that measure think they see future derangement in our currency and ruin to our internal commerce; in the defeat of the article on taxation, finance, and the public debt that the door is left wide open for inequalities in the distribution of the burdens of the government, and for state and individual bankruptcy; but, Mr. Chairman, admitting that these articles are defeated (which I trust may not be the case) and that the evils predicted by their friends, sudden and overwhelming as the avalanche, sweep over the state, and that to these are added the three great scourges of mankind—war, pestilence, and famine—what are these, I ask, if the minds of the people are enriched with the treasures of learning and intelligence? If their minds are deeply imbued with the spirit of patriotism inherited from our fathers, we may hope, notwithstanding all, for the rising greatness of the state. When the fury of the pestilence is past, when the ravages of war have ceased, when the griping pangs of famine have subsided, correct legislation will cure the remaining evils, and our young and future state will rise like a worthy ship after the perils of a furious gale and steadily pursue its onward passage towards the port of distinguished greatness.

All admit that the children of the state are to be instructed in political economy and in the various branches of science. How is it to be accomplished? Is it by striking the word "superintendent" from the first section of this article, by dis-

pensing with this state officer, who alone can give uniformity, energy, and efficiency to the system? Is it by a pitiful annual salary of one or two hundred dollars to be given to this officer, whose duties are more onerous, laborious, and abundant than any other officer in the state? Or do gentlemen hope to accomplish this great work by doing nothing, by leaving the subject entirely with the people? Let me inform gentlemen that the people have committed to this convention this first interest of the state—the work of providing for the instruction of the children of the state for all time to come—a work that positively controls the destinies of the state, upon which depends every other work—a service which the people in their individual capacity can never accomplish, and which, in their representative capacity on this floor, they at our hands now demand. They call upon us to devise the plan and ask to be taxed for its execution.

Doubt and uncertainty may pervade the minds of members of the convention as to their duty with reference to the will and interest of the people on many, on most, other subjects, but on this I should think there could be no doubt. Certain I am, if other constituencies think as those do that I have the honor in part to represent, and whose wish upon this subject, especially, I am proud to express here, then we have unerring certainty as to the will of the people with reference to public schools. The free and intelligent citizens of Grant call on you through their representatives on this floor to incorporate in the fundamental law of the land a provision securing to them a certainty that proper and efficient instructors will be procured to take charge of their public schools; that those schools be not provided for the education of the poor only, but that the children of the rich and the poor may there meet together without any other distinction than that which marks degrees of intellect, that they may each profit alike by their associations with the other, and in the exemplary conduct both as to morals and patriotism presented to them in the scientific instructor of youth. Public schools in most of the states heretofore have been a public calamity, a barrier to the general diffusion of knowledge, and they have greatly contributed to

the perpetuity of distinctions which wealth tends to engender. They have been utterly unfit for the education of the children of freemen. Favored children of the wealthy have not been sent to them; the poor alone have been obliged to enter these miserable offsprings of selfish or unwise legislation and relying on such resources alone, such only being within their grasp, too many have been compelled to enter upon the active scenes of life wanting not only the advantages of wealth, but (shame on the state that would have it so) lacking also the qualifications of learning to almost every extent.

Let me add, sir, in conclusion, that I trust such wrongs will not be perpetrated by the government of this young and rising state; that it is the first interest of the state to provide for the proper culture of those minds that are very soon to direct its destinies; that the safety of the state and the perpetuity of our free institutions are absolutely dependent upon a faithful discharge of this duty, since, as ignorance and vassalage are inseparable, so are the liberties of the people and the permanency of our loved institutions dependent upon intelligence and virtue.—*Express,* Dec. 8, 1846.

SATURDAY, NOVEMBER 28, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Leave of absence was asked for and granted as follows, to wit: By Mr. Patch, for Mr. Manahan; by Mr. Burchard, for Mr. Edgerton; by Mr. Brown, for Mr. Phelps.

Warren Chase, from the committee on miscellaneous provisions, reported No. 33, "Article relative to dueling."

"The committee on miscellaneous provisions, to whom was referred the resolution rendering duelists ineligible to office, report the following article which they recommend to form a part of the constitution:

"Section 1. Any person who shall after the adoption of this constitution fight a duel or send a challenge for that purpose or be an aider or abetter in fighting a duel shall be ineligible to any office of trust, honor, or profit in this state, and may be punished in such other manner as shall be prescribed by law.

W. CHASE
J. D. DOTY
DAVIS BOWEN"

Which was read the first and second times, referred to the committee of the whole, and ordered printed.

Mr. Beall, from the committee on schedule, reported No. 34, "Schedule," which was read the first and second times, referred to the committee of the whole, and ordered printed.

SCHEDULE

"Section 1. That no inconvenience may arise from a change of territorial to a permanent state government, it is declared that all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies corporate shall continue as if no such change had taken place; and all process which may be issued under the authority of the territory of Wisconsin previous to its admission into the union of the United States shall be as valid as if issued in the name of the state.

"Section 2. All laws now in force in the territory of Wisconsin, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations or be altered or repealed by the legislature.

"Section 3. All fines, penalties, and forfeitures accruing to the territory of Wisconsin shall accrue to the use of the state.

"Section 4. All recognizances heretofore taken or which may be taken before the change of territorial to a permanent state government

shall remain valid and shall pass over to and may be prosecuted in the name of the state; and all bonds executed to the governor of the territory or to any other officer or court in his or their official capacity shall pass over to the governor or state authority and their successors in office for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which may have arisen or which may arise before the change from a territorial to a state government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the state. All actions at law and suits in equity which now are or may be pending in any of the courts of the territory of Wisconsin may be commenced in or transferred to any court of record of the state which shall have jurisdiction of the subject matter thereof.

"Section 5. All officers, civil and military, now holding their offices under the authority of the United States or of the territory of Wisconsin shall commence on the first Monday of November next and they shall be superseded under the authority of the state.

"Section 6. The first session of the legislature of the state of Wisconsin shall commence on the first Monday of November next, and shall be held at the city of Madison, which shall be and remain the seat of government until otherwise provided by law.

"Section 7. All county and township officers shall continue to hold their respective offices unless removed by the competent authority, until the legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices respectively.

"Section 8. The president of this convention shall immediately after its adjournment cause a fair copy of this constitution, together with an authenticated copy of the act of the legislature of this territory entitled 'An Act in relation to the formation of a state government in Wisconsin,' approved January 31, 1846, providing for the calling of this convention, and also a copy of so much of the last census of this territory as exhibits the number of its free inhabitants, to be forwarded to the president of the United States, and the respectful request of this convention in behalf of the people of Wisconsin that all said matters may be by him laid before the Congress of the United States at its present session.

"Section 9. In case of the failure of the president of this convention to perform the duties prescribed by this constitution, by reason of his absence, death, or from any other cause, said duties shall be performed by the secretary of this convention.

"Section 10. This constitution shall be submitted at an election to be held on the first Tuesday in April next, for ratification or rejection, to all persons who shall then have the qualifications of electors for delegates to this convention. And if the same be ratified by the said electors, it shall become the constitution of the state of Wisconsin. On such of the ballots as are for the constitution shall be written or printed the word 'Yes' and on those which are against the ratification of the constitution, the word 'No'. The election shall be conducted in the manner now prescribed by law, and the returns made by the clerks of

the boards of supervisors or county commissioners (as the case may be) to the president of this convention at any time before the first day of July next. And in the event of the ratification of this constitution by a majority of all the votes given, it shall be the duty of the president of this convention to make proclamation of the same, and to communicate a digest of the returns to the senate and house of representatives of the state on the first day of their session. The president shall also issue writs to the proper authorities in the several counties, requiring them to cause an election to be held on the first Monday in September next for governor, lieutenant governor, secretary of state, treasurer, attorney general, members of the state legislature, and for all officers who are elective under this constitution, except judges.

"Section 11. Two members of Congress shall also be elected on the first Monday in September next, and until the first enumeration and apportionment shall be made as directed by this constitution the counties of Brown, Manitowoc, Calumet, Fond du Lac, Sheboygan, Marquette, Columbia, Portage, Dodge, Washington, Dane, Jefferson, Waukesha, Milwaukee, and Sauk shall constitute the first congressional district, and elect one member; and the counties of Racine, Walworth, Rock, Green, Iowa, Grant, Crawford, Chippewa, La Pointe, Richland, and St. Croix shall constitute the second congressional district, and shall elect one member.

"Section 12. The first election of judges of the supreme and circuit court shall be held on the second Monday of October next, and the president of the convention shall issue writs to the proper authorities in the several counties and districts requiring such election to be held on the day aforesaid in their respective counties and districts.

"Section 13. The several elections provided for in this article shall be conducted according to the existing laws of this territory; and the returns (except for township and county officers) shall be certified and transmitted to the speaker of the house of representatives, at the seat of government, in such time that they may be received on the first Monday of November next; and as soon as the legislature shall be organized the speaker of the house of representatives and the president of the senate shall, in presence of both houses, examine the returns and declare who are duly elected to fill the several offices hereinbefore mentioned.

"Section 14. The oaths of office may be administered by any judge or justice of the peace until the legislature shall otherwise direct.

S. W. Beall, Chairman."

Mr. Baker, from the committee on the organization and functions of the judiciary, reported No. 35, "Article on the common law."

"The committee on the organization and functions of the judiciary, to whom the subject was referred, respectfully report the following, and recommend its adoption, and that it be embraced in substance in the schedule to the constitution, to wit:

"Such parts of the common law as have hitherto been in use in the territory of Wisconsin, not inconsistent with this constitution, and the statute laws which may be in force shall be and continue part of the law of this state, until altered or suspended by the legislature.

"Respectfully submitted,

C. M. Baker, Chairman"

Which was read the first and second times and referred to the same committee of the whole which shall have in charge No. 34, "Schedule," and ordered to be printed with said schedule.

Mr. Baker, from the same committee to whom had been recommitted No. 13, "[Article] on the organization and functions of the judiciary," reported the same back with amendments.

Mr. [Marshall M.] Strong, from the committee on engrossment, reported No. 3, "Article on eminent domain and property of the state," and No. 11, "Article relative to the act of Congress for the admission of the state," as correctly engrossed.

The resolution introduced by Mr. Noggle on the twenty-fourth instant, relative to amending the rules, was taken up, when Mr. Noggle, by leave, withdrew the same.

The resolution introduced by Marshall M. Strong on the twenty-sixth instant, relative to amending the rules, was taken up. And the pending question being on the amendment of Mr. Baker, Mr. Baker moved to fill the blank with "twenty-five."

A. Hyatt Smith moved to fill the blank with "a majority of the." And the question having been put on the amendment of A. Hyatt Smith, it was decided in the negative. And a division having been called for, there were 34 in the affirmative and 39 in the negative.

Mr. Lovell moved to fill the blank with the words "a majority of the members present." And pending the question thereon, the morning hour having expired, Mr. Burchard moved a suspension of the rules for the consideration of the said resolution now. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 43, negative 48; for the vote see Appendix I, roll call 163].

No. 16, "Article on municipal corporations," was taken up. And the question being on filling the blank therein, Mr. Tweedy moved that the blank be filled with "ten."

Moses M. Strong moved that the blank be filled with "one," when Asa Kinne moved the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

And the question was then put on filling the blank with "ten" and was decided in the affirmative.

The question was then put on the passage of the said article and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 19, negative 66; for the vote see Appendix I, roll call 164].

So the article was rejected.

The article on municipal corporations was then read a third time and the question being on filling the blank, Mr. Tweedy moved to fill, so as to allow no corporations to contract debts to exceed ten per cent on assessed property.

Moses M. Strong proposed one. He didn't like to have these incorporations at liberty to run into debt, anyhow.

Mr. Tweedy reminded gentlemen that this article did not confer new powers on corporations but only put restrictions on the legislature.

Mr. Baird should vote against the entire article. He did not consider it just in its operation.

Mr. Bevans found that the article was more objectionable than he had supposed. He felt obliged to oppose it, though with the greatest respect for the gentleman who introduced it.

Mr. Tweedy—The gentleman needn't forbear on my account. I shall vote against the article myself on account of the amendment (Marshall M. Strong's).

The question was then taken on filling the blank, and ten was inserted. And on the final passage there were [affirmative 19, negative 66; roll call No. 164].—*Express,* Dec. 1, 1846.

No. 3, "Article on eminent domain and property of the state," was read the third time. And the question having been put on the passage of the same, it was decided in the affirmative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 73, negative 10; for the vote see Appendix I, roll call 165].

No. 17, "Article on boundary and name of the state," was read a third time, when Mr. Ryan moved that the further consideration thereof be postponed until Monday next. And pending the question thereon Mr. Holcombe moved that the convention take a recess until two o'clock, P. M. which was agreed to.

TWO O'CLOCK, P. M.

No. 13, "Article on the organization and functions of the judiciary," was taken up, when Marshall M. Strong moved that the secretary be directed to make a fair copy of the same, as amended in the committee of the whole, which was agreed to.

No. 17, "Article on the name and boundaries of the state," was taken up, when Mr. Ryan moved that the same be recommitted to the committee on the name and boundaries of the state, with instructions to report the northwestern boundary of this state on the dividing line between the United States and Great Britain.

Mr. Holcombe moved to amend the motion by adding "*Provided,* That Congress be requested to change the northwest boundary and assent thereto so as to adopt the report of the select committee to inquire into the expediency and locating a line to divide the territory of Wisconsin into two states, viz., commencing at the head waters of the Montreal River as marked by Captain Cram, thence southwesterly to a point a half degree due north to the highest peak on Mountain Island, on the Mississippi River, then due south over said Mountain Island to the center of the channel of the Mississippi River."

And the question having been put on said amendment, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 29, negative 51; for the vote see Appendix I, roll call 166].

The question then recurred on the motion of Mr. Ryan. And having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 21, negative 64; for the vote see Appendix I, roll call 167].

Mr. Holcombe moved to amend the article by inserting before the proviso in the first section, as follows: "*Provided,* That Congress shall be requested so to alter the northwestern boundary of Wisconsin as described in the act of August 6, 1846, as to run from the head waters of Montreal River, where the line marked by Captain Cram first touches said headwaters, southwesterly to a point a half degree due north to the highest peak on Mountain Island; thence due south over said highest peak to the channel of the Mississippi River."

Moses M. Strong moved to amend the amendment by submitting [substituting] the following: "Insert before the proviso in the first section the following: '*Provided,* however, That the following alteration of the aforesaid boundary be and hereby is proposed to the Congress of the United States as the preference of the state of Wisconsin; and if the same shall be assented and agreed to by the Congress of the United States, then the same shall be and forever remain obligatory upon the state of Wisconsin, viz., leaving the aforesaid boundary line at the headwaters of the Montreal River, as marked upon the survey made by Captain Cram, and running thence in a southwesterly course to a point thirty-five miles due north of the highest peak on Mountain Island, on the Mississippi River; thence due south over said Mountain Island to the center of the channel of the Mississippi River; thence down the center of the main channel of that river, as prescribed in the aforesaid boundary.' "

Mr. Holcombe accepted the amendment as a substitute for the amendment proposed by him.

The question was then put on adopting the said amendment and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 49, negative 37; for the vote see Appendix I, roll call 168].

Mr. Elmore moved to reconsider the vote by which the amendment of Moses M. Strong was adopted.

Mr. Gray moved a call of the convention, which was seconded, when on motion of Marshall M. Strong the convention adjourned.

When [two o'clock] the article on boundaries, postponed yesterday, came up, the question being on the motion of Mr. Ryan to commit, with instructions to report as a northern boundary the line between this country and Great Britain.

Mr. Doty understood this to be the point of difference—whether we would utterly refuse compliance with the act of Congress and the boundaries there prescribed and set up our right to the entire territory or would accept the act of Congress for the sake of gaining admission to the Union, at the same time declaring our right to the whole country according to the limits of the Ordinance of '87, which latter he considered sufficiently done in the original report.

Mr. Holcombe moved to amend by instructing the committee to report the line of division offered by him.

Mr. Ryan was sorry the gentleman would not allow a distinct vote to be taken on his proposition.

Mr. Tweedy thought it did not interfere with Mr. Ryan's proposition. He should vote for the division proposed by the gentleman from St. Croix (Mr. Holcombe) and that failing, for the line in the proposition of the gentleman from Racine (Mr. Ryan).

The amendment of Mr. Holcombe was then lost, ayes 29, noes 51.

Mr. Ryan's proposition also failed, ayes 21, noes 64.

Mr. Holcombe then presented his proposition in the shape of a proviso, so as not absolutely to refuse the provisions of the act of Congress—wishing, he said, to get a direct vote on the merits of this proposition. He stood here, he said, at the mercy of this convention, claiming it as a matter of right that those counties so separated from the settled portion of the state as to be entirely removed from the benefits of the state government be set off from it.

Mr. Tweedy had supposed from out-of-door conversation that gentlemen were nearly unanimous in favor of this division. He had been much surprised at the vote just taken. Who, he asked, has answered the argument of the gentleman from St. Croix on the right? What, said he, is the object of government? To cover territory, or to protect men? He thought that a government so organized that a portion of its people

could not share the good was not a government to them. If it can be made to appear, said he, as he thought the gentleman from St. Croix had made it appear, that there are three organized counties separated from us by an impassable desert, it was tyranny to compel them to act with us. They cannot be in this state; they would be attached—that is the word, said he—attached to the state of Wisconsin for state purposes. Said he, if I lived at St. Croix and should come before this convention or before Congress asking to be set off, I should think it extremely hard in them not to grant my request. Gentlemen, said he, seem to talk as if we were giving away a vast tract of land which we held in fee simple, the profits of which we might pocket. He would like to have any gentleman show how it was to be any profit to us to keep that portion. There is, said he, no advantage in annexing different portions of territory unless they are so situated as to be a mutual benefit. If any man could show that country so situated as to aid us, then, said he, there would be some force in their argument; but, said he, there can be no sort of personal, pecuniary, nor state interest in getting that country. If there is any wealth of soil or of mineral then it will belong to the owners, not to us. It is not the same with sister states as with different nations, said he; they will have the same general interest with us in the general government. As he could see no force in the arguments of gentlemen for keeping that territory, and as he was informed that the proposed boundary was a natural barrier between the two parts of the country, and as that division would probably allow the formation of another state on the north in one-third of the time the boundary proposed by Congress would, he should support the line of the gentleman from St. Croix (Mr. Holcombe).

Mr. Brace spoke in opposition to the division line.

Mr. Holcombe, on suggestion, amended his proposition so as to make it binding on the state to recognize this as the boundary in case Congress should grant us the line we had preferred.

The question was taken and the vote stood on the proposition, ayes 49, noes 38.

The convention adjourned.—*Express,* Dec. 1, 1846.

Monday, November 30, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday [Saturday] was read.

Mr. Kellogg introduced the following resolution, which was read, to wit: "*Resolved,* That in the judgment of the convention the principle contained in the sixth section of the bank article is of the most vital importance; but to prevent any apprehension that may be entertained of its operating unfavorably as to the adoption of the constitution by the people it is expedient to strike it out of the bank article."

Marshall M. Strong, from the committee on engrossment, reported No. 2, "Resolution relative to colored suffrage," as correctly engrossed.

Mr. Baker in pursuance of previous notice moved that the vote by which the convention adopted the resolution for the adjournment of the convention on Tuesday, the first day of December next, be reconsidered. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 74, negative 19; for the vote see Appendix I, roll call 169].

Moses M. Strong moved to amend the said resolution by striking out "Tuesday, the first" and inserting the words "Wednesday, the second." And pending the question thereon, Marshall M. Strong moved that the said resolution be laid upon the table. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 71, negative 23; for the vote see Appendix I, roll call 170].

Mr. Reed introduced the following resolution, which was read, to wit: "Resolved, That a committee of nine be appointed by the president to report what change, if any, should be made in the provisions of article No. 1, 'On banks and banking.'"

The resolution introduced by Marshall M. Strong on the twenty-sixth instant, relative to amending the standing rules, was taken up, when Mr. Willard moved that the same be laid upon the table. [And the question having been put] it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 46, negative 51; for the vote see Appendix I, roll call 171].

Mr. Reed moved that the further consideration of said resolution be postponed until Thursday next.

Moses M. Strong moved to amend the motion by striking out the word "Thursday" and inserting the word "Monday," which was disagreed to.

Mr. Lovell moved to amend the motion by striking out the word "Thursday" and inserting the words "when the committee on revision make their report," which was agreed to.

The motion as amended was then agreed to.

Mr. Goodell introduced the following resolution, which was read, to wit "*Resolved*, That this convention adjourn on Monday, December seventh, 1846."

The resolution introduced by Wm. R. Smith on the twenty-seventh instant, relative to printing the journals, etc., was taken up, when Wm. R. Smith moved that the said article be passed informally and be printed, which was agreed to.

The resolution introduced by Mr. Judd on the twenty-sixth instant, relative to restrictions upon trade, was taken up, when Mr. Ryan moved that the same be laid upon the table, which was agreed to.

The resolution introduced by Hiram Barber on the twenty-sixth instant, relative to a separate submission to the people of the article on banks and banking, was taken up, when Hiram Barber moved that the further consideration thereof be postponed until the committee on revision shall have made their report. And pending the question thereon, Mr. Whiteside moved that the same be laid upon the table. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 55, negative 48; for the vote see Appendix I, roll call 172].

No. 2, "Resolution relative to colored suffrage," was read the third time. And the question having been put on the passage of the said article, it was decided in the affirmative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 53, negative 46; for the vote see Appendix I, roll call 173].

So the article passed.

Mr. Vineyard gave notice that on some future day he would move a [re]consideration of the vote by which the article on colored suffrage was passed.

Mr. Parks moved that the vote on the passage of said article be reconsidered.

Mr. Gray moved a call of the convention, which was ordered.

Moses M. Strong moved that all further proceedings under the call be dispensed with, which was agreed to.

Mr. Parks, by leave, withdrew his motion.

No. 13, "Article on the organization and functions of the judiciary," was taken up. And the question being on concurring in the amendments of the committee thereto, and a division of the question having been called for, and the question having been put on concurring in the first amendment of the committee, which was to amend the sixteenth section by striking out the words "and shall have power to establish inferior courts in the several counties, with limited civil and criminal jurisdiction," and adding the said paragraph to the second section, it was decided in the affirmative.

The question was then put on concurring in the second amendment of the committee, which was to insert between the words "majority" and "shall," in the fifth line of the fourth section, the words "of the

judges present,'' and also to strike out all after the word ''decision,'' in the sixth line of the same section, and was decided in the affirmative.

The question was then put on concurring in the third amendment of the committee, which was to strike out of section 7 the word ''be'' in the fourth line, and insert in lieu thereof the words ''have been''; and add to said section as follows, to wit: ''One of said judges shall be designated as chief justice, in such manner as the legislature shall provide,'' and was decided in the affirmative.

The question was then put on concurring in the fourth amendment which was to insert between the words ''of'' and ''judge,'' in the ninth section, the words ''a supreme or circuit,'' and also to insert after the word ''judge,'' in said section, the words ''of the supreme or circuit court,'' and was decided in the affirmative.

The question having been put on concurring in the fifth amendment, which was to insert between the words ''year'' and ''preceding,'' in the thirteenth section, the word ''next,'' and to strike out the words ''the same,'' where they occur after the word ''deposit,'' and insert in lieu thereof the words ''such statement,'' and to strike out the word ''bond'' in the thirteenth line of said section and insert the word ''security'' in lieu thereof, also to insert the word ''shall'' between the words ''and'' and ''give'' in the same line, and also to strike out the word ''shall'' between the words ''he'' and ''in'' in the same line, and insert the word ''may'' in lieu thereof, and strike out the word ''receive,'' in the same sentence, and insert the word ''demand,'' it was decided in the affirmative.

The question then being on concurring in the sixth amendment of the committee, which was to strike out the twenty-second section, Mr. Dennis moved to amend the amendment by adding, ''and insert as follows: 'Any suitor in any court of this state shall have the right to prosecute and [or] defend his suit either in his own proper person or by an attorney or agent of his own choice.' '' And the question having been put, it was decided in the affirmative. And a division having been called for, there were 44 in the affirmative and 14 in the negative.

The question was then put on concurring in the said amendment as amended and was decided in the affirmative.

And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 57, negative 28; for the vote see Appendix I, roll call 174].

Mr. Beall moved to amend the tenth section by striking out the word ''of'' next preceding the words ''$1500,'' and insert[ing] in lieu thereof the words ''not exceeding.'' And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 36, negative 45; for the vote see Appendix I, roll call 175].

Mr. Burt moved to amend the said article by striking out all in the first line of section 17 between the words ''be'' and ''who'' and insert[ing] the words ''appointed a judge by the nomination of the governor and the confirmation of the senate''; and in the second line strike [by striking] out the word ''chosen'' and insert[ing] in lieu thereof

the word "appointed"; also strike [by striking] out the word "elected," where it occurs in the second and third lines, and insert the word "appointed."

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 9, negative 85; for the vote see Appendix I, roll call 176].

Mr. Burt then offered an amendment to insert "appointed by the governor and senate" in place of "elected by the electors," wherever they occur.

Mr. Baird didn't propose to go into the argument, but he felt it the duty of every man to give his views on this important subject. His objections were mainly these: First. The elective system is an experiment for the most part untried. Second. On account of the population of our territory—those being made electors by the suffrage article whom he did not think sufficiently acquainted to make a proper selection. Third. He feared the judges would be elected on party grounds. He wished the judiciary to be really independent of both the executive and the people. He wished no truckling to party. These, he said, in all candor, are the reasons that would influence him.

Mr. Ryan then said he thought there were evils in both systems. He didn't like the proposition now before the convention, but at a proper time would offer one he had prepared which seemed to him to meet more of the objections to the appointing system than any he had seen. It was as follows: To recommit to the judiciary committee with instructions to report on the following principles: First. The judges of the supreme court shall be appointed by the governor, with the consent of three-fourths of the senate. Second. The first five judges to be appointed severally for one, two, three, four, and five years and all vacancies to be filled for the unexpired term of the judge who has vacated. Third. All future judges to be appointed for five years. Fourth. When the term of any judge is about expiring the governor shall give notice thereof to the senate, whereupon the senate shall take a vote on his continuance and if three-fourths of that body shall vote for the continuance of the incumbent, he shall be continued. Fifth.

No judge shall be eligible or appointed to any other office during the term for which he is appointed.

J. Y. Smith was himself opposed to the elective mode; he had written against it, but he did not consider it a matter of such vital importance as some gentlemen did. He had said that he would be governed by the wishes of his constituents. He thought their wish to be for an elective judiciary; he should therefore vote for it in opposition to his own views.

Mr. Gibson felt at liberty to act his own judgment in reference to the judiciary question from the fact that he had never heard an individual in the county of Fond du Lac express himself either in favor of or opposed to the elective system and did not suppose there was any feeling among his constituents in reference to this question. He had formed an opinion before he came into this convention favorable to an elective judiciary, and that opinion remained unchanged. He believed that the people were capable of self-government—that the nearer the officeholder was brought to the people the better, and that they (the people) are or ought to be the source of all political power. He had no fears that the foreigner would be any more likely to vote for an incompetent person to fill the office of judge than would the native citizen, for not only the native but the adopted citizen would take into consideration that he was voting for an officer that might be called to sit in judgment not only over his property, but perhaps his life. He preferred the elective system to the old mode of appointing by the governor and senate. He had resided in the state of New York, where the judges were appointed—he knew by observation something of its operations. It was a notorious fact that a few politicians at the different county seats formed themselves into a kind of regency for the purpose of watching over the interests, or more particularly the offices of the people, and whenever the office of judge became vacant a few "wire workers" were called together, and upon their recommendation to the executive some "brawling" politician received the appointment, while the people had no voice in the selection of their own judges. He had known judges to procure their appointments in this manner when in all probability they could not have re-

ceived the votes of one-third of the people for the same office, and he believed that we would have better judges if we adopted the elective than we should under the appointing system.

The question was then taken on Mr. Burt's amendment, which was lost.—*Express,* Dec. 8, 1846.

Mr. Ryan moved that the said article be recommitted to the judiciary committee, with instructions to report an amendment upon the following principles:

First. The judges of the supreme court to be appointed by the governor, by and with the consent of three-fourths of the senate.

Second. The first five judges to be severally appointed for one, two, three, four, and five years; all appointments to fill vacancies to be for the unexpired term of the judge vacating the office.

Third. All future appointments to be for five years.

Fourth. When the term of a judge is about expiring, the governor to notify the senate; whereupon the senate shall take a vote upon the continuance of such judge for a new term; if three-fourths vote for such continuance, the judge shall so continue in office another term; if not, the governor shall nominate his successor.

Fifth. No judge to be eligible to any office, except judicial, for the term for which he is appointed judge.

And pending the question thereon, on motion of Mr. Tweedy the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

No. 13, "Article on the organization and functions of the judiciary," was taken up. And the pending question being the motion of Mr. Ryan to recommit the said article with instructions, and the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 20, negative 78; for the vote see Appendix I, roll call 177].

Mr. Lovell moved to amend the said article by striking out the seventh section and inserting as follows:

"Section 7. There shall be chosen by the qualified electors of the state five judges, who shall be judges of the supreme and circuit courts, and shall hold their offices for the term of five years and until their successors are chosen and qualified; and when elected they shall severally reside in the circuits which shall be designated for them by law."

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 27, negative 69; for the vote see Appendix I, roll call 178].

Mr. Lovell moved to amend by striking out the twelfth section of said article, which was disagreed to.

The said article was then ordered to be engrossed for its third reading.

TWO O'CLOCK, P. M.

Mr. R[yan] defended his amendment at great length.

Geo. B. Smith spoke in opposition.

Mr. Tweedy agreed with Mr. Ryan entirely in his argument and amendment for an appointive system.

Mr. Bevans should not vote for the article unless he could satisfactorily to his own mind answer all the arguments of the gentlemen from Racine and Milwaukee; but he must believe them mistaken. The power to prescribe, to execute, and to adjudicate laws is in the people; and that they act by proxy does not destroy the principle. There was no reason why the judiciary should be taken from the people, rather than the executive and legislative power. The whole is a question of expediency. Good judges have not always been given to the people by the appointive principle; and the probability of getting good judges was just as certain as if they were appointed. Men will not inquire whether a judge has yielded to the popular breeze, but whether he has stood erect in spite of the popular will.

H. Barber did not believe the argument was unanswerable and averred that he could not agree that the judge would be governed by the will of the people; but he would be governed by the right of the case none the less for being elected.—*Argus*, Dec. 8, 1846.

ELECTIVE JUDICIARY

(Speech of Mr. Ryan, in convention, November 30, 1846)

Mr. Ryan said that he had not voted for the amendment for simple appointment; he could not do it; he knew too well all the evils of the old system. He was opposed to election; he was also opposed to simple appointment on the old plan. Much reflection on the difficulties of both plans had led his mind to the principles embodied in his present proposition. This proposition avoiding altogether the difficulties of election seemed to him to avoid also all the objections of weight to the

system of appointment. He therefore moved to recommit with instructions to report an amendment on the following principles:

First. The judges to be appointed by the governor, with the consent of three-fourths of the senate. Second. The first five judges to be severally appointed for terms of one, two, three, four, and five years, and all appointments to fill vacancies to be for the unexpired term of the judge vacating the office. Third. All future judges to be appointed for five years. Fourth. When the term of a judge shall be about to expire, the governor to notify the senate; whereupon the senate shall take a vote upon the judge's continuance in office; and if three-fourths vote for his continuance, he shall hold the office for a new term; if not, the governor shall appoint his successor. Fifth. No judge to be eligible to any office, except judicial, for the full term of his appointment.

Mr. Ryan said that at this late period of the session, when all were so anxious to bring their labors to a close, and on a question, too, on which, however great his faith, he had no hope, he was very reluctant to occupy the time of the convention. He was chiefly anxious to explain his views because there seemed to be a feeling to some extent that no Democrat can dissent openly from the elective system. Still, although he proposed to confine himself rather to define the main principles on which he rested his proposition than to argue the various questions arising upon it, if the house should manifest any indisposition to hear him, he would resume his seat and leave his proposition to speak for itself in the minds of members and in the experience of the future.

After pausing a few moments Mr. Ryan proceeded—

Well, sir, I thank the convention, and in return I shall endeavor to be as brief as a fair exposition of my views will permit me to be.

Since the question of the election of the higher judges by the people has been the subject of serious and general consideration, it has ever been to me a subject of deep attention and interest, and I have given to it much and earnest thought. I have brought to bear upon it all the lights of reading, experi-

ence, and reflection within my power, and, sir, I have been unable to satisfy my mind that the experiment will work well. Sir, if I approached this subject with any prejudice, it was prejudice in favor of it. I believe in man; I believe in his full capacity for self-government—and in our system; I believe and have ever believed in bringing all government into the direct power of the people as far as it is practicable to bring it. In regard to political offices I have ever believed it to be essential to the theory of our system that the choice should be directly with the people; without this our system has no vitality; and there are many political agents otherwise chosen, as the United States senators, who should in my judgment be chosen by the people themselves, without any intermediate machinery; the present mode is a solecism in our system. So, sir, as regards administrative offices and offices not strictly political. I have ever believed that where no serious weight of objection having regard to the functions of the office intervenes, the direct choice should be with the people. Sir, I believe in the people as firmly as the most decided advocate, here or elsewhere, of an elective judiciary. With these views I approached the subject; and the more I have studied it, the more carefully I have examined it, the more lights I have brought to bear upon it, the more I doubt that the election of the higher judges by the people will work safely or well.

I have heard it and read it, here and elsewhere, that the principles on which our system of government is founded required the election of the judges by the people. If so, let me pause; for then am I, too, an elective man. Sir, I think I understand something of the holy human theory on which this system of ours rests; the democratic principle is my religion, and wherever it leads me will I go; to whatever conclusion it may carry me, however startling, however strange, I will follow it unflinchingly, with firm step and steady mind, for it is the guiding star of my faith, and can never mislead me, can never betray me. But, sir, I must know of my own mind that it does lead me to this; the more devoutly I worship its guiding light, the more certainly must my eye be assured of its presence; until I be so assured, I will follow no step; no ignus

fatuus dazzling in fictitious lustre will betray me from the path I have walked and will walk to my grave.

Let me then first resolve this question, Do the principles of our system require this thing here proposed to us? It has been said that our government is a democracy. This is not so. A pure democracy has not existed in modern times—cannot exist in a large state; perhaps it has strictly never existed, never can exist out of the natural state. In a pure democracy the people, the whole aggregate people, of their own right, in their mere original capacity as a people, without any intermediate agency, retain and exercise all the functions of government. Ancient history gives us examples of some quasi pure democracies; but even in these, if my memory serves me, the judicial power was set apart, and the power of judgment was not a delegated power. But ours is not a pure democracy. It recognizes, it is founded upon the great democratic principle of man's right and capacity to govern himself; but it is a representative, constitutional, republican government. In our system the people in their primary capacity exercise no function of government; such an exercise, whatever it may have been, is now an idle dream of impossible systems. But our system recognizes the principle that the right of government is from the people and for the people and that all political power should come from them. This political power divides itself into the legislative and the elective; the judicial is not a political power in this sense. And as in our system we say that all political power belongs to the people, and as in our day it is impossible for the people aggregate to exercise it, we resort to the representative principle. The people unable to meet together to make laws choose a body of men to do so in their name; unable themselves to execute those laws when made, they choose some man or men to do so in their name. These men, so chosen, are the representatives of the people, legislative and executive, because they are chosen to represent in their respective offices the people, and to do their will—to speak and to do what of right belongs to the people to speak and to do, as the people themselves would speak and do if it were possible—to be, within certain limits which bind the peo-

ple themselves, the mere creatures of the popular will, the mere echoes of the popular voice.

And the judiciary—is this so with it too? Would you have it, too, a mere echo of the popular judgment? Sir, disguise it as men may, that is the naked question. Sir, this is the question propounded by men who assume that the election of judges by the people is essential to the purity and consistency of our system. Sir, our system requires the election of the legislature because the legislature is a mere agency to record the popular will. Sir, our system requires the election of the political executive because it is a mere agency to enact the public will; and men would have it, by their argument, that the judiciary, too, should be a mere echo of the popular judgment.

This, sir, is the question to which they lead me: Is the judiciary, like the legislative and executive, representative? Must its judgments represent the will of the people? Varnish it as you will, that is the plain and simple question. No, sir! No, sir! God forever forbid it! Sir, the law should be the just will of the people; but the judiciary are not to make laws; they are to administer them in judgment. The law should be the just will of the people, but it should be administered according to no will, but according to truth and justice.

The office of the judiciary is interpretation, and interpretation cannot be a representative function. The principle of representative democracy does not apply to the judiciary; the judicial is not a representative function. If the executive and legislative offices are to work out the will of the people, it is well; let the people choose them, that they may represent their constituents, the people. This is right; it is the very order and beauty of our system. But the judiciary—what is that to represent? Who are its constituents? Sir, the judiciary represents no man, no majority, no people. It represents the written law of the land; it represents the eternal principles of truth and justice; it holds the balance, and weighs right between man and man, between the rich and the poor, between the weak and the powerful, between the stranger and the lord of the soil, between one man and many men, between the crim-

inal and the whole people; and woe be to it, if any influence of people or power touch the hesitating scale or sway the trembling balance. Truth, right, justice—these are the constituency of the judiciary; and woe to the land, woe to them who dwell in it, when they that sit on the judicial bench shall be responsible to other constituents, prince, or people; when they who sit in judgment on all that man holds dear—life, liberty, character, honor, the daily bread man prays for to his God, and the daily peace to eat it—shall represent any voice, save that voice in which God speaks in the consciences of all, their own deep and solemn convictions of right and truth. Away with the will of the people; away with the responsibility of the representative. Let the judiciary stand on the eternal rock of right, unswayed by all the clamorous waves of opinion chafing its unconscious base—above all influences, above all representation—the representative of eternal and living truth.

Then, sir, it is an idle fiction, a baseless plausibility to say that the principles of our representative government require the election of our judiciary by the people.

Let us get our judiciary how we can; let us get its organization in the safest plan; let us calmly examine all plans for the best. This is a question of expediency. No principle requires the election.

As to the prevailing system of appointments, I admit that it has in it many and grave evils. If the naked choice were submitted to me, between simple election and simple appointment, I know not how I should vote. The executive patronage of the old system is bad; the virtual one-man power of choice is bad; the long terms which retain the efficient and the inefficient judge alike are bad; I admit it all. I admit all, too, which was said this forenoon by the gentleman from Fond du Lac (Mr. Gibson) of the dictation of cliques and caucuses to the appointing power, of the corrupt and corrupting influences which govern the recommendations of the local professional politicians; all this I have seen and do fully admit. But, sir, I do as well believe that all the objections used by the gentleman from Fond du Lac apply as strongly to the conven-

tions which nominate for election as to the caucuses which dictate for nomination—aye, sir, and apply more strongly, for while no one is responsible for the nomination of a convention, a governor and senate owe a deep responsibility for a bad and unworthy appointment. But I am not yet to speak of this. I am to examine the working of the elective system.

Sir, in this system it is not the people I distrust; it is the men who will limit the choice of the people to particular candidates, who will virtually choose for the people; it is they I distrust. To some extent I will trust conventions and caucuses in politics because in politics they have a restraining and selfish regard for the public will. But in the administration of public justice and in all that pertains to it I distrust the terrible caucus power. I apply here all that was said by the gentleman from Fond du Lac, all that has been urged in my hearing in doors of the corrupt political influences brought to bear upon the choice of judges. If the people could on the day of electing judges come to the polls unbiassed, unpledged, unsolicited, unlimited in their choice, without caucuses, without nominations, and cast their ballots for the free choice of their consciences, one great objection to the elective system would be gone—a minor, but still a great objection. But it will not be so. When the people come to the polls they will have a choice of candidates, but not a choice of judges. It will be a foregone conclusion of the politicians. Choose ye between our candidates—will be the entire freedom of choice left them by the politicians. And, sir, I admit as I admitted before that this evil of election exists also in the old system, but with a difference.

In the election there is no responsibility; none in the conventions, which of their very nature are unrecognized and irresponsible bodies; none in the people for they are the power to whom all are responsible and who can owe no responsibility. But in the old system there is a terrible concentration of responsibility; no governor dare nominate a notoriously bad or incapable man; no governor could survive the careless nomination of one who should prove a bad or incapable judge. Sir, I have seen this in the election of judges by the legislature; I

have seen no responsibility resting on any one of a large body, for a choice, which would have destroyed the most popular governor that ever made an appointment. With this difference of responsibility, I admit the equal application of this abuse to both systems; but this is an immense difference, a ponderous difference. Concentration of responsibility is a grand restraint. Look abroad and see the men who disgrace the halls of legislation, and say, if these men had been appointed, could the appointing power survive. And yet there is no responsibility for the disgrace and evil they bring upon high offices. In political office this is an unavoidable evil.

Sir, in this system it is not the people I distrust, but the judges to be chosen by the people; it is not the choice of the people so much, as the effect of the choice upon the judges. This objection combines with it the short terms of election. And this, sir, is my grand distrust of the elective system.

In their admiration of this experiment men turn their backs upon the inevitable conclusion that election of judges for short terms will produce precisely the same effects upon the judges that the election of political officers for short terms produces upon them, will subject the judges to the same influences, will hold them to the same sense of responsibility to the public will, and that thus the virtue of the political system will become the vice of the judicial. Elected by the suffrages of the people, for a short term, with the hope of reëlection or promotion, the political officer looks back forever upon his constituents, is inquisitive of the popular sentiment, full of anxious regard for the popular will, feels the public pulse and counts his own healthy when it beats responsively to that. In political office this is right, this is admirable. It is the vitality of the representative system that the representative should thus forever look back from his own judgment to the will of his people, and thus anxiously ascertaining should faithfully execute the delegated will of those who chose him for his power and inclination to obey them. But that which is the vitality of political representation will be the corruption of the judiciary. Analagous things will produce analogous results. Man on the bench and man in political office are the same in nature, subject, if ex-

posed, to the same influences. What is true of political office will be true of the judicial office under the same system—the beauty of the one will be the deformity of the other. Elect the judges by the people, for short terms, with the hope of reëlection or promotion—sir, the judge will cease to be the representative of truth and right and justice alone; he will be the representative of the people and will represent the popular judgment, when there is one, not his own. He, too, will remember who elected him and who must reëlect him; he, too, will look back forever; he, too, will feel the public pulse; and, sitting on the seat of justice, her representative, he will look forth to mark the blowing of the popular breeze and will steer the course of public justice by the popular current. Sir, the the very theory of the political representative system is, that, chosen by the people for short term, the officer will have no will but their will, and apply the same system to the bench and the judge will never have a judgment against the popular judgment. Aye, sir, that is it; the representative of public justice will become the representative of the people, and will calculate influences and count majorities with any politician of the land.

Do not let gentlemen seek to evade the force of this argument by saying that I argue upon the depravity of man. I do not, but I argue upon a sufficient appreciation of the weakness of human nature and subjection to influence. Strength of character above influence is the rarest human attribute. Our nature is a weak one; all its evil comes of its weakness. We are not conscious of the influences which guide our conduct, control our judgment, lead our affections. Our whole life is but a tale of unseen influences. And, sir, where there is one public man who obeys the public will by deliberate surrender of his own there are a thousand who think the public will their own, and never conscious that the public judgment is unseen governing their own dream that they lead the public opinion which is driving them. No, sir, under this system there will be many weak judges for one corrupt judge.

I do not say that there will be no exceptions to this influence; I do not say that the choice of the people will never fall

upon a man of a high strength of character and stern integrity of mind, above and beyond all such influence. God forbid. But I say that this is the tendency of the system, the inevitable tendency. Nine times out of ten this influence will hover unseen about the head of the judge, unseen of him, unseen of all, warping judgment, betraying justice, falsifying truth and the recorded will of the people; the law of justice which speaks through them and stands in their written and unwritten law will bend and give way before a popular excitement, a popular prejudice, the judgment of public clamor; truth will fall before error; right will give place to wrong, that the judge may be popular. Oh, sir, with such a bench, whenever there may be a popular excitement, the public passion will be the public law.

I have heard much incidental discussion here, and much direct discussion amongst the delegates out of doors, on the present judicial system of the territory. Justly or unjustly, much fault is found with it; and gentlemen avow that, because our judges are appointed, the evils of the present system have driven them to find a cure in election. Sir, the evils of our present system have no reference to appointment. They are the inherent evils of a territorial system; and yet, so far as they have reference to appointment or election, they drive me the other way. Gentlemen say that the system is weak and bad, and they must find a remedy in election. Do gentlemen reflect that our judges have been in the very attitude of judges elected for short terms by the people? Yes, sir, the judges have held their places by a precarious tenure now about to expire; they have held them with the knowledge that, yet a little while, and they must descend from their platform, amongst the people, depending on them for the bench office, the very position of the judges you propose to elect for five years.

Sir, if any of the evils of which gentlemen complain argue at all upon this question, they argue against the election; for these judges have lived from year to year in yearly expectation of state government, and if any influence spring from the fact, it is the same influence, in a less degree, which I fore-

see in the elective system. And, sir, however delicate it may be to discuss such a matter, I will confess that I have seen something of this influence at work. I do not speak wholly of my own judgment. I am borne out by very general observation of gentlemen with the opportunities of judging. I have seen as good and pure and upright a man as breathes, as capable as any you will ever find upon the bench under this system—I have seen such a man, conscious only of pure motives and unbiased judgment, uneasy of public opinion, shrinking from opposition and to public judgment, flinch from the full integrity of his purpose. I have seen this and others have seen it; he only was unconscious of it; and when I say it, I only say that, good and pure as he was, he partook of the common weakness of human nature. Sir, this is very painful to me, and perhaps it had better have been left unsaid but I confess I could not see men rushing upon election from influences which should drive them the other way, without warning them of their egregious error.

But it may be said that my last instance answers the argument which preceded it. Sir, it is doubtless true that the people will see the most glaring instances of judicial subserviency, and seeing, will condemn it. But, sir, there are minor evasions and minor trucklings which will only be seen by parties and their lawyers, whose complaints will be let down to disappointment. But let me admit the people will see all; let me avow my full confidence that, seeing it, the people will forever repudiate the judge who waves his duty to his popularity and descends from his high state to palter to the public opinion. This does not alter the influence on the judge; this does not correct the weakness of human nature. The judge who trims his sails to the popular breeze, thinking to court public favor by the very means which excite public distrust, sees nothing of the effect. He, strong in his own cunning, sows for a different harvest, and, even when he reaps the just consequence of his conduct, may like many another lay his disappointment to the account of republican ingratitude, the fickleness of popular favor. And the unconscious weak man—how can he suspect others of seeing what he does not see himself? Or see

reflected on the minds of the multitude what he cannot see at work upon his own? A judge is but a man, and like other men, has no gift "to see himself as others see him."

We have thus far seen that no principle requires the election of the judges by the people—that the mode of getting them is a question of mere expediency. We have seen, too, something of the evils of the old system of appointment, and have something foreseen of the evils which election for short terms will bring upon the judiciary. I have in fact endeavored to demonstrate that the very principle upon which gentlemen urge the election utterly condemns it. Let me now advert to my own proposition.

Hold fast by that which has proved good should be a maxim never forgotten by legislators. In retaining the concentrated responsibility of appointment, I have in a great degree avoided the objection of patronage. Except in the first appointments, a temporary and light objection, no governor could have more than a single place to fill, and that only in the contingency of the rejection of the old judges by the senate. In fact the constitution would always forestall the right of nomination by the governor. By requiring the assent of three-fourths of the senate, we have a great restraint upon the arbitrary choice of the governor and a great assurance of worthy appointments. By the graduation of the terms, we avoid all risk of an evil in the present article, immense of itself, the risk of an entirely new bench in every five years. By the constitutional renomination of the incumbents, we have a system which will be continually sifting the bench, sifting the chaff from the wheat, the bad judges from the bench. By it, he who has proved worthy will be retained, and he who has proved unworthy cannot long inflict his presence on the bench. A great thing, the object of objects, to assure a long term to the [good] judge and a short one to the poor judge. It removes all temptation of courting favor from the judges, who might anticipate who would be governor, but can never anticipate the senate. And, finally, the disqualification forever ends an evil I have long seen in the West, by which the seat of justice is made a mere stepping-stone to political office.

To say that this proposition is imperfect is but to say that it is human. But to say, as I think I may say, that it avoids all the evils of election, and most of the evils of the old appointments, while it retains all their good, which has raised such proud monuments of judicial fame, and has in it some merits peculiar to itself, is only to boast that much and deep thought on the subject has not been wholly unavailing.

Sir, it is hard work arguing against a settled conviction. But so much was due to the proposition I had the honor to submit to the convention; and, sir, if I had not felt it hopeless, even my poor ability could have been incited to some higher effort in a matter so important. It matters little what laws you have, if you have not an able and impartial judiciary to interpret and administer them. Laws are waste paper without the judicial function; and laws depend greatly for their character for good or for bad upon the judiciary which administers them. Far more than on the executive, than on the legislative, far more on the judiciary depends national character. Without a judiciary, able, enlightened, upright, and independent, no nation ever had or will have a high national character.

And, sir, to say all that I have to say on this subject at once, I will now express my strong hope that some friend of the elective system will move the election of the judges by the state at large. If it were today a question whether the judges of the United States Supreme Court should be elected by the people of the states at large I should have little objection on this score. The constituency would be so large, so extended, that the influence could be very slightly felt, if at all. The broader the constituency of an elective judiciary, the less the evils; the narrower, the greater the evils; just as the broader the constituency of a political officer, the lighter his responsibility to those whom he represents; the narrower his constituency and the closer his dependence on them, the better he would inevitably represent them. As I said before, the virtue of the one is the vice of the other. And, sir, as it is clear that we must try this experiment, I am willing it should be tried; the public mind seems to be so aroused that perhaps nothing short of a

trial will satisfy it. So be it, but let the trial at least be in the best form of the system.

Sir, I have trespassed longer on the time of the convention than I had intended. I thank them for their patience and attentive hearing. I suppose what I have said will give little satisfaction to the advocates of election, save to a few friends who have talked of this as some sort of a test question and denounced such views as mine as anti-Democratic. So let it be, and let the experience of the future decide between us. If the system should be found against all my distrust to work well, I shall be satisfied; my only aim is a good judiciary. In the meantime I may say with some pride that it is with far more confident satisfaction I bear witness to the belief which is in me when I do so against—not with—the popular current, for I can have no distrust that I am borne away by that mighty but often unfelt influence when I feel that I am endeavoring to stem its resistless waves.—*Argus*, Jan. 5, 1847.

No. 17, "Article on the name and boundaries of the state," was taken up, when Mr. Magone moved to reconsider the vote by which the amendment of Moses M. Strong thereto was adopted.

Mr. Baird moved a call of the convention, which was ordered, and Messrs. Hiram Barber, Cartter, Coxe, Gilmore, Green, Hesk, Hill, Hunkins, George Hyer, Inman, Madden, Patch, Parsons, Mr. President, Randall, Reed, A. Hyatt Smith, Moses M. Strong, and Vineyard reported absent.

On motion, Mr. Hill was excused from his attendance.

The sergeant at arms was sent for the absentees.

Mr. Hicks moved that all the absentees be excused, which was disagreed to.

Mr. Kellogg, by leave, moved that when the convention adjourn, it adjourn to meet at six o'clock, P. M., which was disagreed to.

Mr. Willard moved that all further proceedings under the call be dispensed with, which was disagreed to. And a division having been called for, there were 36 in the affirmative and 43 in the negative. Several of the absentees having appeared in their seats, on motion of Asa Kinne all further proceedings under the call were dispensed with.

The question then recurred on the motion of Mr. Magone. And having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 73, negative 31; for the vote see Appendix I, roll call 179].

The question then recurred on the adoption of the amendment upon which the vote was reconsidered. And having been put, it was de-

cided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 35, negative 68; for the vote see Appendix I, roll call 180].

Mr. Hunkins moved that the vote by which the convention rejected the motion of Mr. Ryan to recommit be reconsidered. And pending the question on said motion, on motion of Mr. Gray the convention adjourned until seven o'clock, P. M.

SEVEN O'CLOCK, P. M.

The question was put on the motion of Mr. Hunkins to reconsider the vote by which the convention rejected the motion of Mr. Ryan to reconsider and was decided in the negative.

Marshall M. Strong moved to amend by striking out the proviso to the first section, which was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 33, negative 56; for the vote see Appendix I, roll call 181].

Moses M. Strong moved to amend by adding the following to the proviso in the first section: "*Provided* further, That if Congress does not consent to the admission of Wisconsin into the Union with the aforesaid proviso, then it is hereby ordained and declared that the state of Wisconsin 'doth consent to and accept of the boundaries' prescribed in the aforesaid act of Congress, without condition or reservation."

And the question having been put on said amendment, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 47, negative 46; for the vote see Appendix I, roll call 182].

Mr. Ryan moved to amend the first section by striking out the whole proviso, which was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 47, negative 45; for the vote see Appendix I, roll call 183].

Moses M. Strong moved further to amend said article by striking out the second section.

Wm. R. Smith moved to amend the second section by striking out of the fourth and fifth lines of the printed bill the words, "unless Congress shall assent to the boundaries as herein claimed," which was decided in the affirmative.

Mr. Burnside gave notice that he would move a reconsideration of the vote by which the proviso of Moses M. Strong, added to the proviso in the first section, was adopted.

The question was then put on the motion of Moses M. Strong to strike out the second section and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 39, negative 52; for the vote see Appendix I, roll call 184].

James H. Hall asked for leave of absence for himself. Leave was granted.

On motion of Mr. Dennis the convention adjourned.

TUESDAY, DECEMBER 1, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

The resolution introduced by Mr. Judd on the twenty-third instant, relative to discharging the committee on revision from the further consideration of the article on banks and banking, was taken up, when Mr. Judd moved to amend the same by striking out the words "Monday next," and insert[ing] the words "Thursday the third of December."

Moses M. Strong moved that the said resolution be laid upon the table. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 43, negative 51, for the vote see Appendix I, roll call 185].

Moses M. Strong moved that the [further consideration of the] said resolution be postponed until the committee on revision shall have made their report, which was agreed to.

Mr. Vliet introduced the following resolution, which was read, to wit: "*Resolved,* That this convention adjourn on Tuesday the eighth instant."

The resolution introduced by Nathaniel F. Hyer on the twenty-fourth ulto., relative to a construction of the rules, was taken up, when Moses M. Strong moved that the same be laid upon the table. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 44, negative 56; for the vote see Appendix I, roll call 186].

Mr. Kellogg moved that the further consideration of the said resolution be postponed until the committee on revision shall have made their report. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 53, negative 46; for the vote see Appendix I, roll call 187].

No. 17, "Article on the name and boundaries of the state," was taken up, when Mr. Doty moved to amend the said article by adding the following proviso, to wit: "*Provided,* however, That the admission of this state into the Union according to the boundaries as above described shall not in any manner affect or prejudice the right of this state to the boundaries which were 'fixed and established' for the fifth division or state of the Northwestern Territory in and by the fifth article of compact in the ordinance of Congress for the government of the territory northwest of the river Ohio, passed July 13, 1787, and by an act to divide the Indiana Territory into two separate governments, approved the eleventh day of January, 1805, and by the admission of the states of Ohio, Indiana, Illinois, and Michigan into the Union, which

said boundaries are as follows, to wit: On the south, by a west line drawn through the southerly bend or extreme of Lake Michigan to the Mississippi River; on the west by the Mississippi River, from the point where the said line intersects the middle of said river to its source, and thence due north to the forty-ninth parallel of latitude; on the east by a line drawn from the said southerly bend of Lake Michigan through the middle of the said lake to its northern extremity, and thence due north to the northern boundary of the United States; and on the north by the said northern boundary."

Moses M. Strong raised a question of order, as follows: "Can the convention entertain this amendment, it being the same proviso stricken out by [vote of] the convention?"

The President decided the amendment to be in order, as the proviso, when stricken out, had been amended.

Moses M. Strong appealed from the decision of the Chair. And the question having been put, "Shall the decision of the president stand as the judgment of the convention?" it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 54, negative 39; for the vote see Appendix I, roll call 188].

Hiram Barber moved to amend the amendment of Mr. Doty by inserting between the words "boundaries" and "which" in the eighteenth line of the amendment the words "on the south," and strike out all after the words "Mississippi River," in the twenty-fourth line.

And pending the question thereon, on motion of Mr. Willard, the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

No. 17, "Article on the name and boundaries of the state," was taken up. And the pending question thereon being on adopting the amendmet of Hiram Barber to the amendment offered by Mr. Doty, and the question having been put, it was decided in the negative.

Moses M. Strong moved to amend the amendment by striking out the following words, to wit: "the admission of this state into the Union according to the boundaries above described," and insert[ing] the following, "Congress be requested to provide by law that the acceptance of the aforesaid boundaries and admission of said state."

And the question having been put, it was decided in the affirmative. And a division having been called for, there were 37 in the affirmative and 34 in the negative.

The question was then put on adopting the said amendment as amended and was decided in the negative.

And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 39, negative 44; for the vote see Appendix I, roll call 189].

Mr. Holcombe moved to amend the said article by adding to the first section the following proviso, to wit: "*Provided*, however, That the following alteration of the aforesaid boundary be and hereby is pro-

posed to the Congress of the United States as the preference of the state of Wisconsin, and, if the same shall be assented and agreed to by the Congress of the United States, then the same shall be and forever remain obligatory on the state of Wisconsin, viz., Leaving the aforesaid boundary line in the middle of Lake Superior opposite the mouth of the Burnt Wood River; from thence through said mouth of the Burnt Wood River on a direct line southwardly to the head or most northwesterly bend or the head of Lake Pepin, to the channel of the Mississippi River; thence down the center of said Lake Pepin and channel of the Mississippi River, as prescribed in the aforesaid boundary."

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 30, negative 61; for the vote see Appendix I, roll call 190].

Boundaries

Mr. Doty moved to amend the first section by inserting the original proviso, which, with a second offered by Moses M. Strong, had been stricken out yesterday.

Hiram Barber then moved to amend the proviso so that it declare only that the right to country on the south shall not be prejudiced.

This amendment gave rise to quite a debate on our right to the Illinois belt, and incidentally to the discussion of our right to that tract set off to Michigan on the northeast and to the whole country up to 49 degrees, and the expediency of claiming the same. The amendment was lost.

Moses M. Strong then moved to amend the proviso by substituting "that Congress be requested to provide by law that the acceptance of the boundaries prescribed by Congress and the admission of the state shall not in any manner affect or prejudice the right of this state to the boundaries prescribed by the Ordinance of the '87," in place of the absolute assertion in the original, which was adopted.

The question then being on the adoption of the proviso as amended, it was lost [roll call 189].

Mr. Holcombe then offered an amendment to add as proviso the following boundary on the north as the preference of the state of Wisconsin, viz., Leaving the aforesaid boundary line in the middle of Lake Superior opposite the mouth of the Brule

River; from thence through said mouth of the Brule River in a direct line southwardly to the head or most northwesterly bend of Lake Pepin to the channel of the Mississippi River; thence down the centre of said Lake Pepin and channel of said Mississippi River as prescribed in the aforesaid boundaries.

Mr. Holcombe stated this to be merely taking the boundary out of the river St. Croix and running it a little south. This change, which did not much affect territory, he asked as right to the people of St. Croix, who would be divided, one part in and the other out of the state, by the proposed boundary of Congress.

The question was taken, and there were ayes 30, noes 61; so the amendment was lost.—*Express*, Dec. 8, 1846.

Horace Chase moved to amend the said article by striking out all after the words "Lake Superior," in the twelfth line of the printed bill, to the word "thence," in the fifteenth line, and inserting the words, "where it intersects the forty-seventh degree of north latitude; thence west until said line intersects the Mississippi River," which was disagreed to.

Mr. Hicks moved to amend the said article by striking out all after the word "Wisconsin," in the first line of the first section, and inserting the words "does hereby consent to and declare the boundaries for the state of Wisconsin to be as established for the fifth division or state of the Northwestern Territory in and by the fifth article of compact in the ordinance of Congress for the government of the territory northwest of the river Ohio, passed July 13, 1787." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 29, negative 56; for the vote see Appendix I, roll call 191].

Marshall M. Strong moved to amend the said article by striking out the second section and all of the first section after the words "August 6, 1846."

William R. Smith raised a question of order, as follows: "Can a motion be made to strike out the second section by connecting it with a portion of the first section, the convention on yesterday having refused to strike out the second section?"

The President decided the amendment to be in order, from which decision William R. Smith took an appeal. And the question having been put, "Shall the decision of the president stand as the judgment of the convention?" it was decided in the affirmative. And a division having been called for, there were 44 in the affirmative and 18 in the negative.

Mr. Parks moved a call of the convention, which was ordered, and Messrs. Bennett, Berry, Bowen, Brace, Burnside, Clark, Coombs, El-

more, Fitzgerald, Gibson, George Hyer, Joseph Kinney, Mills, Randall, and Whiteside reported absent.

On motion, George Hyer and Mills were excused from their attendance.

Several of the absentees having appeared in their seats, Mr. Cruson moved that all further proceedings under the call be dispensed with, which was agreed to.

Asa Kinne moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on adopting the amendment of Marshall M. Strong and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 38, negative 63; for the vote see Appendix I, roll call 192].

The question was then put on ordering the article to be engrossed for its third reading and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 67, negative 31; for the vote see Appendix I, roll call 193].

W[arren] Chase asked that leave of absence be granted him. Leave was granted. Mr. Whiteside asked that leave of absence be granted him. Leave was granted.

On motion of Mr. Magone the convention adjourned.

Wednesday, December 2, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read.

A. Hyatt Smith, from the select committee of eleven, to whom had been referred No. 10, "Article on the constitution and organization of the legislature," reported the same back with amendments.

Marshall M. Strong, from the committee on engrossment, reported Articles Nos. 13, and 17 as correctly engrossed.

Mr. Lovell introduced the following resolution, which was read, to wit: "*Resolved,* That the following section shall be adopted into and form a part of the constitution of [the state of] Wisconsin:

"Section 1. The boundaries of the state of Wisconsin shall be and remain as follows, to wit: 'Beginning at the northeast corner of the state of Illinois, that is to say, at a point in the center of Lake Michigan where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence running with the boundary line of the state of Michigan through Lake Michigan and Green Bay to the mouth of the Menomonee River; thence up the channel of said river to the Brule River; thence up said last mentioned river to Lake Brule; thence along the southern shore of Lake Brule in a direct line to the center of the channel between middle and south islands in the Lake of the Desert; thence in a direct line to the headwaters of the Montreal River, as marked upon the survey made by Captain Cram; thence down the main channel of Montreal River to the middle of Lake Superior; thence through the center of Lake Superior to the mouth of the St. Louis River; thence up the main channel of said river to the first rapids in the same, above the Indian village, according to Nicollet's map; thence due south to the main branch of the St. Croix; thence down the main channel of said river to the Mississippi; thence down the center of the main channel of that river to the northwest corner of the state of Illinois; thence due east with the northern boundary of the state of Illinois to the place of beginning, as established by 'An Act to enable the people of Illinois Territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states,' approved April 18, 1818; and the state of Wisconsin doth consent to and accept of the boundaries as [above] mentioned, and declare the same to be irrevocable without the consent of Congress.' "

Mr. Rogan introduced the following resolution, which was read, to wit: "*Resolved,* That a committee of five (of which the president shall be chairman ex officio) be appointed to prepare an address to the people, to be published in the same manner and at the same time with the constitution."

The resolution introduced by Wm. R. Smith on the twenty-seventh of November, relative to printing the journals, was taken up, when on motion of Wm. R. Smith the same was passed over informally.

The resolution introduced by Mr. Reed on the thirtieth of November, relative to the article on banks and banking, was taken up when Mr. Gray moved that the same be laid upon the table. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 51, negative 45; for the vote see Appendix I, roll call 194].

The resolution introduced by Mr. Vliet on yesterday, relative to an adjournment, was taken up, when Mr. Reed moved that the same be laid upon the table, which was agreed to.

The resolution introduced by Mr. Kellogg on the thirtieth of November, relative to the article on banks and banking, was taken up, when Mr. Parks moved that the same be laid upon the table, which was agreed to.

The resolution introduced by Mr. Burt on the twenty-seventh of November, relative to prohibiting the legislature from appropriating money for clerical services, was taken up, when Mr. Kellogg moved that the same be laid upon the table. And pending the question thereon, the morning hour expired.

No. 11, "Article relative to the act of Congress for the admission of the state," was read the third time, when Mr. Hicks moved that the further consideration thereof be postponed until the final consideration of Article No. 17, which was disagreed to. And a division having been called for, there were 25 in the affirmative, negative not counted.

Mr. Bevans moved that the further consideration thereof be postponed until Friday next. And pending the question thereon, Moses M. Strong moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 50, negative 47; for the vote see Appendix I, roll call 195].

The question was then put on the passage of the said article and was decided in the affirmative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 59, negative 41; for the vote see Appendix I, roll call 196].

So the article passed, and the title thereof was agreed to.

No. 13, "Article on the organization and functions of the judiciary," was then read a third time, when Mr. Baker asked and obtained the unanimous consent of the convention to amend the twenty-fifth section by striking out the words "territory on." The question was then put on the passage of the said article and was decided in the affirmative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 86, negative 13; for the vote see Appendix I, roll call 197].

No. 17, "Article on the name and boundaries of the state," was read the third time, when Mr. Baird moved that the vote ordering the said

article to be engrossed for its third reading be reconsidered. And pending the question thereon, on motion of Asa Kinne the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

Article No. 17 was again taken up. And the pending question thereon being the motion of Mr. Baird to reconsider, Mr. Reed moved a call of the convention, which was seconded, and Messrs. Baker, Hiram Barber, J. Allen Barber, Bell, Bowker, Boyd, Coombs, Goodrich, Goodsell, Granger, Hays, Hill, O'Connor, Seaver, George B. Smith, and Topping reported absent.

Mr. Noggle moved that all further proceeding under the call be dispensed with, which was agreed to. And a division having been called for, there were 49 in the affirmative, negative not counted.

The question then recurred on the motion of Mr. Baird to reconsider the vote on ordering the said article to be engrossed. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 51, negative 44; for the vote see Appendix I, roll call 198].

Mr. Parks moved that the said article be referred to a select committee of five.

Mr. Hicks moved to amend the motion by striking out the words "a select committee of five" and inserting in lieu thereof the words "the committee of the whole."

Moses M. Strong moved to amend the amendment by adding "with instructions to report as follows, to wit:

ORDINANCE IN RELATION TO THE BOUNDARIES OF WISCONSIN

"Section 1. It is hereby ordained and declared that the state of Wisconsin doth consent to and accept of the boundaries prescribed in the act of Congress entitled 'An Act to enable the people of Wisconsin Territory to form a constitution and state government, and for the admission of such State into the Union,' approved August 6, 1846, which boundaries are as follows: Beginning at the northeast corner of the state of Illinois, that is to say, at a point in the center of Lake Michigan where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence running with the boundary line of the state of Michigan through Lake Michigan and Green Bay to the mouth of the Menomonee River; thence up the channel of said river to the Brule River; thence up the last mentioned river shore to Lake Brule; thence along the southern shore of Lake Brule in a direct line to the center of the channel between middle and south islands in the Lake of the Desert; thence in a direct line to the headwaters of the Montreal River, as marked upon the survey made by Captain Cram; thence down the main channel of the Montreal River to the middle of Lake Superior; thence through the middle of Lake Superior to the mouth of the St. Louis River; thence up the main channel of said river

to the first rapids in the same, above the Indian village, according to Nicollet's map; thence due south to the main branch of the St. Croix; thence down the main channel of said river to the Mississippi; thence down the center of the main channel of that river to the northwest corner of the state of Illinois; thence due east with the northern boundary of the state of Illinois to the place of beginning, as established by 'An Act to enable the people of Illinois Territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states,' approved April 18, 1818.

"Section 2. This ordinance is hereby declared to be irrevocable without the consent of the United States and of this state."

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 48, negative 54; for the vote see Appendix I, roll call 199].

Moses M. Strong moved to amend the amendment by adding, "with instructions to strike out all after the words 'state of Wisconsin,' " and insert[ing] "refuses to consent to and accept of the boundaries prescribed in the act of Congress entitled 'An Act to enable the people of Wisconsin Territory to form a constitution and state government, and for the admission of such state into the Union,' approved August 6, 1846. And it is further hereby ordained and declared that the boundaries of the state of Wisconsin shall be as follows, viz., On the south, a line drawn east and west through the most southerly bend or extreme of Lake Michigan; on the west, the center of the main channel of the Mississippi River and a line running north from the source of the said river; on the north, the boundary line between the United States and the possessions of Her Brittanic Majesty; on the east, a line running north and south through the center of Lake Michigan.

"Section 2. This ordinance is hereby declared to be irrevocable without the consent of the United States and of the state of Wisconsin."

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 20, negative 80; for the vote see Appendix I, roll call 200].

The question then recurred on the amendment of Mr. Hicks. And having been put, it was decided in the affirmative. And a division having been called for, there were 54 in the affirmative, negative not counted.

The question then recurred on the motion of Mr. Parks, as amended, and was decided in the affirmative.

The article on the boundaries then came up on a third reading.

Mr. Parks said that on looking over the description of the boundaries contained in the ordinance as reported by the gen-

tleman from Winnebago (the chairman of the committee on boundaries) and comparing it with that contained in the act of Congress of August 6, 1846, referred to in the ordinance, he had discovered two omissions, one of which omitted to define the northeast corner of the state of Illinois as a place of beginning; the other omitted the statement that the north line of Illinois was established by acts of Congress. These he thought material, and called on the chairman of the committee (Mr. Doty) to explain why those omissions had been made.

Mr. H. Chase called for the previous question.

Mr. Holcombe asked the gentleman to withdraw his call to enable him to move an amendment to the article, which his duty to his constituents required him to do.

Mr. Chase withdrew his call.

Mr. Reed asked the gentleman from La Pointe (Mr. Holcombe) to yield the floor in order to give the chairman of the committee (Mr. Doty) an opportunity to explain in answer to the request of Mr. Parks.

Mr. Doty said if the northeast corner of the state of Illinois was fixed by the acts of Congress it was unnecessary to repeal the provisions of those acts in this article, as it was not for this convention to define the boundaries of that state. The omission of the line of latitude does not affect the question. Her true line was or was not fixed by the act to provide for her admission into the Union. The boundaries described in this article, although they are not literally the same as those in the act of Congress 1846, yet they are essentially so. No other lines are described or referred to than those mentioned in that act.

Mr. Holcombe moved to reconsider the vote, ordering the article to a third reading, on which motion there was considerable debate, and it prevailed.—*Argus,* Dec. 8, 1846.

The report of the select committee of eleven, to whom had been referred No. 10, "Article on the constitution and organization of the legislature," was taken up, when Mr. Ryan moved that the consideration thereof be postponed, and that the same and accompanying documents be printed, which was agreed to. And a division having been called for, there were 54 in the affirmative, negative not counted.

The convention then resolved itself into committee of the whole for the consideration of No. 31, "Article on education, schools, and school funds," Mr. Bevans in the chair. And after some time spent therein the committee rose and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Mr. Moore the convention took a recess until seven o'clock, P. M.

SEVEN O'CLOCK, P. M.

Mr. Dennis, by leave, introduced the following resolution, to wit: "*Resolved*, That the president be and he is hereby authorized to issue a certificate to each member of this convention who has attended the same, for per diem from the fifth day of October last to the day of adjournment inclusive; said certificates to bear interest at the rate of —— per cent until paid. And the treasurer of the territory is hereby authorized and required to pay the amount of said certificates and interest."

And the rules having been first suspended for the consideration of said resolution, A. Hyatt Smith moved to amend the same by striking out the words "said certificates to bear interest at the rate of —— per cent until paid."

Mr. Elmore moved that the said resolution be laid upon the table, which was disagreed to.

Mr. Hunkins moved that the consideration of said resolution be postponed until the committee on revision shall have made their report, which was agreed to.

The convention then resolved itself into committee of the whole for the consideration of Article No. 31, Mr. Bevans in the chair. And after some time spent therein the committee rose and by their chairman reported progress on said article and asked leave to sit again. Leave was granted.

On motion of Mr. Meeker the convention adjourned.

The convention went into committee of the whole on schools.

After some debate the first section was amended so that "the state superintendent shall be elected or appointed in such manner and for such term of office as the legislature shall direct."

H. Barber moved to amend so as to make the distribution of public moneys in proportion to the number of scholars in the district, instead of the number attending school.

Mr. Graham was in favor of the principle of the amendment. He had opposed the words of the report in committee; but he thought it best to leave it to the legislature.

The question was taken and the amendment was adopted.

Mr. Judd moved to strike out the word "public" and insert "common" schools.

Mr. Graham thought the natural division of schools was into public and private. He considered the word "common," in its common acceptation, to mean inferior. He wished to have "public" schools, so that the public would be benefited.

Mr. Judd wanted common schools for common, every-day people.

Mr. Randall hoped the amendment would prevail. He hoped all the public moneys should go to common district schools.

Mr. Burchard hoped the amendment would not prevail for the same reason.

Mr. Kellogg "felt considerable" on this subject; and if he had been instructed on any subject by his constituents, he had been on this, and he felt that he should not satisfy them if he took all the public moneys for common district schools. He hoped the amendment would not prevail.

The amendment was adopted.

N. F. Hyer then moved to except "the moneys arising from the university lands" from being applied to common schools.

General Smith thought we had no right to take these moneys for any other purpose than specified in the grant. He hoped the amendment would prevail to prevent ambiguity.

The amendment was adopted.

Mr. Ryan moved to add as follows: "Until a university shall be established the net income from the university lands shall be appropriated to the support of normal schools," which was adopted.

The committee then rose and the convention adjourned.—*Express,* Dec. 8, 1846.

THURSDAY, DECEMBER 3, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Horace Chase introduced the following resolution, to wit: "*Resolved,* That the doorkeepers be instructed and required to sweep the hall in the evening after the convention adjourns, and that they also be required to dust the desks and chairs before the hour of meeting in the morning." And the rules having been first suspended for the consideration of said resolution, Moses M. Strong moved that the same be laid upon the table, which was agreed to.

The resolution introduced by Mr. Burt on November 27, relative to prohibiting the legislature from paying any money for clerical services, was taken up, when Mr. Bevans moved that the same be referred to a select committee of three, of which Mr. Burt should be chairman, which was agreed to.

The President announced the appointment of the following committee, to which said resolution was referred, to wit: Messrs. Burt, John Y. Smith, and Kellogg.

Mr. Dennis introduced the following resolution, which was read, to wit: "*Resolved,* That there be allowed to Ezra L. Varney and Andrus Vial one hundred dollars for plastering the convention hall, and the treasurer of the territory is hereby directed to pay the same; *Provided,* That at the time the treasurer pays the foregoing appropriation he shall endorse the same on a contract entered into between the superintendent of territorial property and said Varney and Vial, on the seventeenth day of August, 1846."

The resolution introduced by Mr. Lovell on the second instant, relative to the boundaries of this state, was taken up, when Moses M. Strong moved that the same be referred to the same committee of the whole which shall have under charge the articles on the name and boundaries of the state, and that the same be printed, which was agreed to.

The resolution introduced by Mr. Vliet on the first instant, relative to the adjournment, was taken up, when on motion of Mr. Parks the same was laid upon the table.

The resolution introduced by Mr. Rogan on the second instant, relative to preparing an address to the people, was taken up, when, on motion of Mr. Ryan the further consideration thereof was postponed until the committee on revision shall have made their report.

Mr. Baird asked that leave of absence be granted him after today. Leave was granted.

The convention then resolved itself into committee of the whole for the consideration of No. 31, "Article on education, schools, and school funds," Mr. Bevans in the chair. And after some time spent therein

the committee rose and reported the said article back with amendments thereto.

The question being on concurring in the amendments of the committee of the whole thereto, and a division of the question having been called for, and the question being on concurring in the first amendment of the committee, which was to strike out in the first section the words, "The superintendent shall be chosen by the electors of the state once in every two years," and insert, "The state superintendent shall be elected or appointed in such manner and for such term of office as the legislature shall direct," Mr. Graham moved to amend the amendment by striking out the amendment and insert[ing], "The state superintendent, until otherwise provided by law, shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold his office for the term of two years, and until his successor shall be elected or appointed."

And the question having been put, it was decided in the negative. And a division having been called for, there were 28 in the affirmative, negative not counted.

[The amendment of the committee of the whole as amended was then concurred in].

The question was then put on concurring in the second amendment of the committee, which was to strike out the word "public" in the second line of the second section, and insert in lieu thereof the word "common," and was decided in the affirmative.

The question having been put on concurring in the third amendment of the committee, which was to insert after the word "purposes," in the fourth line of the second section, the words "except the lands heretofore granted for the purposes of a university," it was decided in the affirmative.

The question having been put on concurring in the fourth amendment of the committee, which was to strike out all after the word "children," in the tenth line of the second section, and insert "who shall reside in the same, between the age of five and sixteen years inclusive," it was decided in the affirmative.

The question was then put on concurring in the fifth amendment of the committee, which was to add to section second, "until a university shall be established the net income of the university lands shall be appropriated to the support of normal schools," and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 48, negative 51; for the vote see Appendix I, roll call 201].

Mr. Magone moved that the vote nonconcurring in the fifth amendment of the committee be reconsidered. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 48, negative 52; for the vote see Appendix I, roll call 202].

The question was then put on concurring in the sixth amendment of the committee, which was to strike out all after the word "respec-

tively,'' in the second line of the third section, and was decided in the affirmative.

The seventh amendment, which was to strike out the word ''public'' before the word ''schools'' and insert in lieu thereof the word ''common,'' was then concurred in.

The eighth amendment, which was to strike out all after the word ''and,'' where it occurs in the second line of the fourth section, and insert ''[the] common schools shall be equally free to all children, and no sectarian instruction shall be used or permitted in any common school in this state,'' was concurred in.

The amendments having all been disposed of, Wm. R. Smith moved to amend the fifth section by striking out all after the word ''city'' in the third line, which was disagreed to.

Mr. Magone moved to amend the first section by adding, ''The superintendent shall receive an annual salary not less than $1,000, and not exceeding $1,500.''

Mr. Kellogg moved to amend the amendment by striking out the words $1,000,'' and insert[ing] ''$600,'' and strike out ''$1,500,'' and insert ''$1,200,'' which was disagreed to.

The question was then put on the amendment of Mr. Magone and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 46, negative 51; for the vote see Appendix I, roll call 203].

The said article was then ordered to be engrossed for its third reading.

Mr. Holcombe moved that the vote ordering the said article to be engrossed for its third reading be reconsidered. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 46, negative 51; for the vote see Appendix I, roll call 204].

Schools

This article was again considered in committee of the whole. The principle points of disagreement were: the appointment of a superintendent; his salary; the appropriation of the 500,000 acres and all other public lands to the school fund; to make the schools common not public; to divert the university lands to manual schools.

The article was ordered to a third reading at half past eleven under the previous question, when Mr. Holcombe moved to reconsider, which did not prevail.

As amended the article provides: The supervision of public instruction shall be in a state superintendent, elected or appointed as shall be provided by law; there shall be a common

school fund, to consist of all appropriations for educational purposes; all moneys and property may escheat to the state, and all lands except the university lands which shall be distributed in the ratio of the children between the ages of five and sixteen; the towns shall raise a tax sufficient to make with the state fund the sum of $1.50 to each child; that there shall be a uniform system of common schools throughout the state; and that libraries shall be established in the towns.—*Argus*, Dec. 8, 1846.

The report of the select committee to whom was referred No. 10, "Article on the constitution and organization of the legislature," was taken up. And the question being on concurring in the amendments of the select committee of eleven thereto, Mr. Hicks moved that the convention resolve itself into committee of the whole for the consideration of the same, which was disagreed to.

A. Hyatt Smith moved to amend the section reported by the committee by striking out the word "four" in the apportionment to the county of Iowa, and insert[ing] in lieu thereof the word "three," and strike [by striking] out the word "three" and insert[ing] the word "four" [in the apportionment to the county of Rock], which was agreed to.

Mr. O'Connor moved to amend the section by striking out the words "shall constitute a representative district," and the words "shall constitute a senatorial district," wherever they occur, which was disagreed to.

John Y. Smith moved to amend by striking out the word "four" [where it occurs] in the apportionment to the county of Dane, and inserting in lieu thereof the word "five," which was agreed to.

Mr. Gibson moved to amend the section by striking out from the first senatorial district the county of "Fond du Lac," and to amend the second senatorial district by adding thereto the county of "Fond du Lac," and striking out the counties of "Sauk, Richland, Crawford, Chippewa, St. Croix, and La Pointe," and also to amend by adding to the fifteenth senatorial district the counties of Sauk, Richland, Crawford, Chippewa, St. Croix, and La Pointe.

And pending the question thereon, on motion of Mr. Noggle, the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

Article No. 10 was then taken up, when A. Hyatt Smith moved to amend the amendment of the committee of the whole by adding the following section thereto, as section 4:

"Section 4. Until there shall be a new apportionment of the senators and members of the house of representatives the state shall be divided into senatorial and representative [districts] as follows, and the

senators and members of the house of representatives shall be apportioned among the several districts as follows, viz:

The county of Brown shall constitute the first representative district, and shall be entitled to one representative.

The county of Calumet shall constitute the second representative district, and shall be entitled to one representative.

The county of Manitowoc shall constitute the third representative district, and shall be entitled to one representative.

The county of Marquette shall constitute the fourth representative district, and shall be entitled to one representative.

The county of Winnebago shall constitute the fifth representative district, and shall be entitled to one representative.

The county of Sheboygan shall constitute the sixth representative district, and shall be entitled to one representative.

The county of Fond du Lac shall constitute the seventh representative district, and shall be entitled to one representative.

The county of Columbia shall constitute the eighth representative district, and shall be entitled to one representative.

The counties of Sauk and Richland shall constitute the ninth representative district, and shall be entitled to one representative.

The county of Washington shall constitute the tenth representative district, and shall be entitled to four representatives.

The county of Dodge shall constitute the eleventh representative district, and shall be entitled to four representatives.

The county of Milwaukee shall constitute the twelfth representative district, and shall be entitled to eight representatives.

The county of Waukesha shall constitute the thirteenth representative district, and shall be entitled to six representatives.

The county of Jefferson shall constitute the fourteenth representative district, and shall be entitled to five representatives.

The county of Dane shall constitute the fifteenth representative district, and shall be entitled to four representatives.

The county of Racine shall constitute the sixteenth representative district, and shall be entitled to ten representatives.

The county of Walworth shall constitute the seventeenth representative district, and shall be entitled to six representatives.

The county of Rock shall constitute the eighteenth representative district, and shall be entitled to five representatives.

The county of Green shall constitute the nineteenth representative district, and shall be entitled to one representative.

The county of Iowa shall constitute the twentieth representative district, and shall be entitled to seven representatives: *Provided,* That whenever the said county of Iowa shall be divided, and two new counties shall be organized out of the same, then the northern of said two new counties shall be entitled to three representatives, and the southern of said two new counties shall be entitled to four representatives.

The county of Grant shall constitute the twenty-first representative district, and shall be entitled to five representatives.

The county of Crawford shall constitute the twenty-second representative district, and shall be entitled to one representative.

The counties of St. Croix and Chippewa shall constitute the twenty-third representative district, and shall be entitled to one representative.

The county of La Pointe shall constitute the twenty-fourth representative district, and shall be entitled to one representative.

The county of Portage shall constitute the twenty-fifth representative district, and shall be entitled to one representative.

The counties of Brown, Calumet, Winnebago, Fond du Lac, Manitowoc, and Sheboygan shall constitute the first senatorial district, and shall be entitled to one senator.

The counties of Marquette, Columbia, Portage, Sauk, Richland, Crawford, Chippewa, St. Croix, and La Pointe shall constitute the second senatorial district, and shall be entitled to one senator.

The county of Washington shall constitute the third senatorial district, and shall be entitled to one senator.

The county of Dodge shall constitute the fourth senatorial district, and shall be entitled to one senator.

The county of Milwaukee shall constitute the fifth senatorial district, and shall be entitled to two senators.

The county of Waukesha shall constitute the sixth senatorial district, and shall be entitled to two senators.

The county of Jefferson shall constitute the seventh senatorial district, and shall be entitled to one senator.

The county of Dane shall constitute the eighth senatorial district, and shall be entitled to one senator.

The county of Racine shall constitute the ninth senatorial district, and shall be entitled to two senators.

The county of Walworth shall constitute the tenth senatorial district, and shall be entitled to two senators.

The county of Rock shall constitute the eleventh senatorial district, and shall be entitled to two senators.

The county of Green shall constitute the twelfth senatorial district, and shall be entitled to one senator.

The county of Iowa shall constitute the thirteenth senatorial district, and shall be entitled to two senators: *Provided*, That whenever the said county of Iowa shall be divided and two new counties shall be organized out of the same, then the northern of said two new counties shall be entitled to one senator, and the southern of said two new counties shall be entitled to one senator.

The county of Grant shall constitute the fourteenth senatorial district, and shall be entitled to two senators.

A. Hyatt Smith, Chairman''

[And the question having been put, it was decided in the affirmative].

The question was then put on concurring in the amendment as amended and was decided in the affirmative.

The question was then put on concurring in the fourth amendment of the committee of the whole to the said article, which was to strike

out all after the word "district" in the second line of the printed bill and insert, "The senators shall be chosen for two years, at the same time and in the same manner as the representatives are required to be chosen. At the first session of the legislature under this constitution they shall be divided by lot from their respective districts, as nearly as may be, into two equal classes; the seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year, so that one-half thereof, as nearly as may be, shall be chosen annually thereafter," and was decided in the negative.

The question being on concurring in the fifth amendment of the committee, which was to strike out section 7 and insert the following:

"Section 7. No person holding any office under the United States, postmasters excepted, or who shall be a defaulter to the United States or of this state, shall be eligible to a seat in either branch of the legislature of this state."

Mr. Ryan moved to amend the same by striking out the word "hereafter," which was agreed to.

Mr. Baker moved to amend the said section by striking out the words "of the United States or of this state," and insert in lieu thereof the word "public," which was disagreed to.

The question was then put on concurring in the amendment as amended and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 82, negative 18; for the vote see Appendix I, roll call 205].

The sixth amendment of the committee, which was to strike out the word "and" in the twelfth section and insert the word "or" in lieu thereof, was then concurred in.

The question was then put on concurring in the seventh amendment of the committee, which was to strike out "thirty" in the fourteenth section and insert in lieu thereof the word "forty," and was decided in the affirmative.

The question was then put on concurring in the eighth amendment of the committee, which was to strike out the fifteenth section, and was decided in the affirmative.

The amendments having all been disposed of, Mr. Ryan moved to amend section 11 by inserting between the words "every year," the word "second." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 47, negative 53; for the vote see Appendix I, roll call 206].

Mr. Parks moved to amend the seventh section by striking out the words "postmasters excepted." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 41, negative 59; for the vote see Appendix I, roll call 207].

Mr. Tweedy moved to amend by adding as section 5, "The state shall be divided by the legislature at its first session after each new

enumeration into as many representative districts as there shall be representatives to be elected and also into as many senatorial districts as there shall be senators to be elected; such districts shall be composed of contiguous territory."

A. Hyatt Smith moved to amend the amendment by striking out the words "be divided," and inserting the words "shall have power to divide," which was disagreed to.

The question then recurred on the amendment of Mr. Tweedy. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 59, negative 42; for the vote see Appendix I, roll call 208].

A. H. Smith proposed to amend so as to leave it in the power of the legislature to do so, but not making it binding, which was lost.

Mr. Ryan was in favor of the theory, but was sure it was not practicable now. Harder to be done, said he, in new than in old states.

Mr. Parks had lived in the old Bay State, where it was practicable; he had also lived in the newest part of the new state of Maine, where it was also entirely practicable.

Mr. Hunkins had lived where it was entirely practicable and had been practiced for years.

Mr. Tweedy—"*Resolved,* That the principle is of vital importance, but it is deemed inexpedient at the present time for the Democratic party."

Mr. Ryan—"*Resolved,* That the Whig party are in a very small minority in this convention, and it is their policy to lie low and keep dark for the best interests of the party."

Mr. Magone was for practicing the "fine theory" of the gentleman from Racine, Mr. Ryan.

Mr. Crawford didn't know as 'twould be best for him, personally, but he considered it democratic.

Mr. Drake considered it republican—the very essence of the representative system. The people would know their man; the representative would know his constituents; and there would be more personal responsibility. This was the keeping "low" he liked. He was in favor of this true "low" person republican system.

Mr. Hicks denied that this was a party question, though he was perfectly willing to take issue on it if gentlemen wished. He felt sure that by the single district system Grant County would send a majority of Democratic representatives; but he believed in the measure, and should support it.

The question was taken on Mr. Tweedy's new section, which was adopted by the following vote [roll call 208].—*Express,* Dec. 8, 1846.

Mr. Tweedy moved further to amend by inserting after the fifth section, as follows: "Section 6. The several boards of county officers, in such counties of the state as are entitled to more than one representative, shall meet on the first Monday of July next and divide their respective counties into representative districts equal to the number of representatives to which such counties are severally entitled, and shall cause to be filed in the office of the secretary of state and of the clerks of their respective county boards a description of such districts, specifying the number of each district and the proportion thereof as near as can be ascertained according to the last enumeration. Each representative district shall contain, as nearly as may be, an equal number of inhabitants, and shall consist of convenient and contiguous territory, but no town shall be divided in the formation of each district," when Mr. Ryan moved to amend the amendment by striking out all after the word "territory," in the last line but one. And pending the question thereon, on motion of Moses M. Strong the convention adjourned.

FRIDAY, DECEMBER 4, 1846

Prayer by the Rev. Mr. Miner.

The journal of yesterday was read and corrected.

Mr. Parsons presented the memorial of citizens of Racine County, relative to the proceedings of a meeting of citizens of Yorkville, when Mr. Ryan moved that the further consideration thereof be postponed until the committee on revision shall have made their report, which was agreed to.

Mr. Parsons presented the proceedings of a meeting in the town of Yorkville, Racine County, in which they resolve that they are in favor of the article on banks and banking as it now stands; that they were opposed to the abolition of capital punishment; that they were in favor of the exemption of the homestead of every family from forced sale; that they were in favor of an elective judiciary; and that secret societies ought not to be tolerated in this state.—*Democrat,* Dec. 5, 1846.

Mr. Huebschmann presented sundry petitions of citizens of this territory relative to the elective franchise which were referred to the same committee of the whole which shall have under charge the schedule.

Mr. Toland presented a petition of citizens of Washington County upon the same subject, which was referred to the same committee of the whole which shall have under charge the schedule.

Mr. Huebschmann presented some ten or twelve petitions from various counties, signed by large numbers of persons, praying that all foreigners who had voted for the delegates to this convention be allowed to vote for the adoption or rejection of the constitution, and that they be not required to take another oath to be eligible to the right of suffrage.

Mr. Toland presented a petition from 112 of the inhabitants of Washington County of the same purport.—*Democrat,* Dec. 5, 1846.

Mr. Ryan introduced the following resolution, which was read, to wit: "*Resolved,* That the following be adopted as an article of the constitution:

"Section 1. No person convicted of any infamous crime in any court within the United States and no person being a defaulter to the United States or to this state or to any state or territory within the United States shall be eligible to any office of trust, profit, or honor in this state.

"Section 2. No person being elected or appointed to the office of governor, lieutenant governor, senator or representative in the legislature, a judge of the supreme or circuit courts, shall be eligible during his term of office to any other office of trust, profit, or honor in this state.

"Section 3. Every person elected or appointed to the office of governor, lieutenant governor, senator or representative in the legislature, a judge of the supreme or circuit courts shall be required to declare in his oath of office before he shall assume his office that he will not during the term for which he is elected or appointed to such office accept the office of senator or representative in Congress."

Mr. Bevans introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on expenses be instructed to inquire into the propriety of allowing to Charles Burchard of Waukesha County the necessary expenses incurred by him in regard to the contest of his seat in this convention, and if the same be allowed, then the amount of the same shall be reported by the said committee."

Mr. Baker introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on miscellaneous provisions be instructed to inquire into the expediency of adopting the following to constitute a distinct section of the constitution: No person who shall hereafter be entrusted with public moneys shall be eligible to any office of profit or trust until he shall have accounted for and paid over all moneys with which he shall have been so entrusted."

Mr. Hunkins, from the committee on engrossment, reported No. 31, "Article on [education], schools, and school funds," as correctly engrossed.

Article No. 31 was then read a third time, when Mr. Noggle asked the unanimous consent of the convention to make the following amendments to wit: To insert after the word "direct," in the fourth line of the first section, the words "and shall receive for his services a salary of not less than twelve, nor more than fifteen hundred dollars annually," and to strike out all after the word "city," in the second line of the fifth section. Leave was not granted.

The question was then put on the passage of the said article and was decided in the affirmative.

And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 69, negative 28; for the vote see Appendix I, roll call 209].

So the article passed and the title thereof was agreed to.

No. 10, "Article on the constitution and organization of the legislature," was taken up, when Nathaniel F. Hyer moved to reconsider the vote adopting the amendment of Mr. Tweedy to the fifth section.

Mr. Magone moved a call of the convention, which was ordered, and Messrs. John M. Babcock, Berry, Brace, Cartter, Horace Chase, Dunning, Fuller, Goodsell, and Moses M. Strong reported absent.

The sergeant at arms was sent for the absentees.

Messrs. Dunning, Goodsell, Horace Chase, and Berry were excused from their attendance.

The sergeant at arms reported all the absentees in attendance.

Marshall M. Strong moved that leave of absence be granted to Messrs. Kellogg and Willard. Leave was granted.

The question then recurred on the motion of Mr. Hyer to reconsider the vote adopting the amendment of Mr. Tweedy. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 55, negative 46; for the vote see Appendix I, roll call 210].

On the Legislature

N. F. Hyer moved to reconsider the vote by which the amendment of Mr. Tweedy was yesterday adopted, dividing the state into single districts. And said that he was in favor of the system of single districts, but he did not believe it could be carried out at the present time.

George Hyer had voted for the amendment yesterday, but had become satisfied from the remarks of gentlemen on the amendment offered and not acted upon that it was impossible in practice, and that many members like himself had been deceived.

Mr. Parks was in favor of the section adopted. It was the best principle that could be adopted by a republican government. It was the principle of New England on which the superstructure of republicanism had been reared. On this her schools had grown up. It brought the elector and the elected into immediate contact and acquaintance.

Mr. Drake spoke in favor of the section, and said that it would prevent combinations of large cliques to carry large districts for party purposes—electing men who could not have been elected except by being chosen by so large a district. The large villages would control the politics of the county or district.

The vote was reconsidered—ayes 55; noes 46.—*Argus*, Dec. 8, 1846.

The article on the organization of the legislature then came up, when N. F. Hyer said that by the debate on the last proposition of yesterday he had become convinced that the fine theory could not be carried into practice. He even doubted the theory. He moved a reconsideration of the vote by which the section requiring the legislature to provide for the districting of the state had been passed.

G. Hyer had been deceived; he had thought it a democratic measure; he had now discovered it was a political scheme.

Moses M. Strong in justice to himself stated that he had voted for it yesterday for the purpose of moving a reconsideration.

Mr. Parks showed that it was perfectly practicable and had been long practiced.

Mr. Drake then showed that the theory was republican.

The question was then taken, and the vote reconsidered—ayes 55, noes 46.—*Express,* Dec. 8, 1846.

Moses M. Strong moved to amend the amendment by inserting after the word "state," in the first line, the words "except the county of Iowa." And the question having been put, it was decided in the negative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 28, negative 68; for the vote see Appendix I, roll call 211].

Moses M. Strong moved to amend the section proposed by excepting the county of Iowa.

Mr. Vineyard asked Mr. Strong to include Grant.

Mr. Strong: If you will help us get this in we will help you.

Mr. Ryan: Will you help Racine?

Mr. Strong: Certainly.

The motion to amend was lost—ayes 28, noes 68.—*Argus,* Dec. 8, 1846.

Mr. Parks moved a call of the convention, which was seconded, and Messrs. Berry, Horace Chase, Coombs, Dickinson, Dunning, Ellis, Hackett, Hunkins, and Mills reported absent.

[Messrs.] Horace Chase and Mills were excused from their attendance.

Mr. Ryan moved that the absentees be excused, which was agreed to. And a division having been called for, there were 49 in the affirmative and 39 in the negative.

The question was then put on adopting the amendment of Mr. Tweedy and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 47, negative 53; for the vote see Appendix I, roll call 212].

Mr. Tweedy moved to amend the said article by adding the following as section 5:

"Section 5. The several boards of county officers, in such counties of the state as are entitled to more than one representative, shall meet on or before the first Monday of July next and divide their respective counties into representative districts equal to the number of representatives to which such counties are severally entitled; and shall cause to be filed in the office of the secretary of state and of the clerks of their respective county boards a description of such districts, specifying the numbers of each district and the proportion thereof as near as can be ascertained according to the last enumeration; each representative district shall contain as nearly as may be an equal number of inhabitants, and shall consist of convenient and contiguous territory."

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 27, negative 73; for the vote see Appendix I, roll call 213].

Marshall M. Strong moved to amend the said article by striking out the second section and inserting:

"Section 2. The number of the members of the house of representatives shall never be less than 60 nor greater than 120. The senate shall consist of a number of members not greater than one-third, or less than one-fourth of the number of the members of the house of representatives."

Moses M. Strong moved the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on adopting the amendment of Marshall M. Strong and was decided in the affirmative.

The question was then put on ordering the said article to be engrossed for its third reading and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 68, negative 31; for the vote see Appendix I, roll call 214].

Moses M. Strong moved that the vote ordering the said article to be engrossed be reconsidered, when Mr. Cooper moved that the said motion be laid upon the table, which was disagreed to.

Moses M. Strong moved the previous question, which was ordered. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 61, negative 37; for the vote see Appendix I, roll call 215].

The question was then put on the motion of Moses M. Strong to reconsider the vote ordering the said article to be engrossed and was decided in the negative.

On motion of Mr. Noggle the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

The convention resolved itself into committee of the whole for the consideration of No. 32, "Article on the rights of married women and on exemption from forced sale," Mr. Magone in the chair. And after some time spent therein the committee rose and by their chairman reported the said article back with amendments.

Mr. Patch moved that the convention take a recess until seven o'clock, P. M., which was agreed to.

Rights of Married Women and Exemptions from Forced Sale

The article on these subjects was taken up and considered in the committee of the whole.

Mr. Lovell moved to strike out the first section and insert, "that the legislature shall pass laws to protect the property of the wife."

Mr. Ryan opposed the section because it was contrary to the usages and customs of society, to the express commands of the Bible that "they twain shall be one flesh"; because it would encourage men to be fraudulent by secreting their property under the cover of the wife's name, and because the provision if adopted will lead the wife to become a speculator, and to engage in all the turmoil and bustle of life, liable to sue and be sued, and thereby destroy her character of a wife; and because villains would be induced to seek wives not for their sake, but for the sake of covering up their frauds.

Mr. Burt said that the argument of Mr. Ryan had satisfied him that the article was not right.

Mr. W. R. Smith believed the adoption of the section would not have the demoralizing effect mentioned by Mr. Ryan. He looked upon the law as it now stands as a remnant of the feudal system, which ought to be abolished, and the sooner the better.

The amendment of Mr. William R. Smith was adopted, viz., "All real property and all personal property of the wife, owned by her at the time of her marriage, and that acquired by her afterwards, by gift, devise, descent, or otherwise than from her husband, shall be her separate property. Laws shall

be passed providing for the registry of the wife's property and more clearly defining the rights of the wife thereto, as well as property held by her with her husband."

Mr. Cooper moved to strike out the second section and amend so that the exemption shall extend to forty acres only, and that to be a farm or village lot worth $600 and such personal property as may be prescribed by law.

Mr. Ryan moved to amend that part proposed to be stricken out by inserting among the personal property the "tiger" of a gambler and the "fiddle" of a dancing master, which was lost.

And the article was then reported to the convention.—*Argus,* Dec. 8, 1846.

SEVEN O'CLOCK, P. M.

On motion of Nathaniel F. Hyer the convention again resolved itself into committee of the whole for the further consideration of No. 32, "Article on the rights of married women and exemption from forced sale," Mr. Magone in the chair. And after some time spent therein the committee rose and by their chairman reported the same back with amendments.

Mr. Hicks moved that the convention adjourn, which was disagreed to.

Mr. Ryan moved the previous question, which was not seconded.

Mr. Randall moved that the convention adjourn, which was agreed to. And a division having been called for, there were 47 in the affirmative and 35 in the negative. So the convention adjourned.

The convention then adjourned till seven o'clock, when the section on exemption was taken up and debated till a late hour. At length the committee rose and reported an article exempting forty acres of land with the improvements, leaving to the owner to select the lot.

The convention then adjourned.—*Express,* Dec. 8, 1846.

THE EXEMPTION BILL

(Remarks of Mr. Patch, in committee of the whole, December 4, 1846)

I rise, Mr. Chairman, to trespass upon the time of the convention for a few moments in support of the proposition now

before the committee. My partiality for it is not the unstable conviction of a moment but a fixed or confirmed principle for years.

Sir, for a long time I have witnessed the operation of laws for the collection of debts with something more than ordinary curiosity, and I do say that as far as my limited knowledge extends the laws of this territory as well as those of different states are too severe in their exactions and too repulsive and degrading in their tendencies.

To prove these facts, Mr. President, I need not enter into detail of the misery and crime that is entailed upon the people of this country on account of the rigidity of our collection laws. They are facts which come home to the minds of members of this convention with a force not to be denied. Yes, sir, their blighting influences are seen by every eye and felt by the whole community.

Sir, the time has been when it was considered criminal to be in debt, and the man that was so unfortunate as not to be able to meet his demands was brought before the tribunals of justice and if found guilty incarcerated within the jail of the county.

But, thanks to the enlightening influences which surround the institutions of a republican government, that relic of barbarism, that offspring of tyranny is doomed to the silent slumbers of the tomb, never more to disgrace the statute books of the country. But the motive power which actuated that result did not stop there; the humane principle of the mind where the institutions of the country do not impede its full development is progressive, and it has progressed commensurate with other principles which have come within the scope of investigation and research, and the time has come that the people in their majesty have decided that further innovations are necessary, and it gives me pleasure that amidst the party rancor exhibited on this floor, growing out of subjects that have come within the purview of this convention, we can unite on common ground on this subject. The petitions sent up here demand it; the principles of liberty and the spirit of the age demand it.

Sir, I am for progressing in this matter as far as equal rights and justice dictate and no farther. In matters of legislation the principles of justice should be the polar star to govern all our actions; the rights of individuals should be held inviolate; and any legislature that does not make this the governing principle in their actions diverges from the landmarks which united this confederacy.

Sir, I have said that I am in favor of enacting laws for the collection of debts; the safety of the creditor calls for it; and I think it serves as a check upon the reckless latitude given to the credit system.

But, sir, while I would extend an arm of the law to the creditor for the protection of his property, and assert his rights, I would not beggar the debtor nor erect over him a petty monarchy (in the shape of a creditor) to trample upon him with impunity.

Sir, I am for giving him a competency for the support of himself and family, not a bare pittance to meet the exigencies of a few days, regardless of sickness or any other misfortune which may befall him. No, sir, my philanthropy extends farther than that; it is not so circumscribed in acts of munificence. I would give him a home, the permanency of which is fixed and immutable, that amid the changing vicissitudes which characterize the business transactions of life and amid calamities that beset his path a man can rise above the ruin that surrounds him and exclaim with a heart filled with gratitude and countenance beaming with joy—"My home is left!"

Sir, home is an endearing word; it has associations accompanying it that touch the tenderest fibres that vibrate the human mind, and until the heart ceases to perform its functions and the last pulsation is gone will that charm [not] cease to exist. Sir, the principles of liberty demand this exemption, and when I speak of liberty I mean that incorruptible liberty which was purchased by the blood of the Revolution and transferred to us unsullied, and one great and leading feature of that liberty is the assertion of it through the ballot box, and I ask, gentlemen of the convention, if the ballot box has become corrupted, if the domineering influence of relentless creditors

has not been a fruitful source to accomplish that result! But, sir, elevate the man above the proscriptive influence of the creditor and you correct the evil; do this and you reinstate him on that high and lofty pinnacle where the God of nature placed him. I ask, gentlemen, if human nature does not require this exemption—if the glorious attributes of our nature do not plead the correctness of these principles. I have heard some gentlemen argue that if a man contracts debts he should be compelled to pay them. Sir, I have as much regard for individual accountability as any man; I hold that there are other principles equally true, that the God of nature has endowed us with life, that we are entitled to a sufficiency of this world's goods to render that life agreeable and happy.

Sir, it is the opinion of some members here that this question should be left with the legislature. I, for one, do not agree with them. I believe that in the first place the amount of property exempted should be liberal, sufficient for all the reasonable wants of the debtor and his family; that accomplished, it should be engrafted in the organic law of the state for its permanency and stability; the interests of the creditor as well as debtor demand it should not be left open, subject to be modified or altered according to the caprice of succeeding legislatures.

And now I ask in all sincerity, Shall we go home to our constituents without granting this boon so loudly called for by petitions? Are we to refer this subject to future legislative enactments, when the people with a unanimity seldom equalled proclaim immediate action? Sir, is the man who has been drawn here by oppression and adversity, with barely sufficient means to pay his expenses, and after the lapse of two or three years, by dint of industry, economy, and privation has gathered sufficient means to purchase a home—shall that home still be torn from him and he yet compelled to take the trail of the savage to elude the pursuit of his oppressors? No sir. Common sense says no, and I hope the organic law will say no.

For my part the path for me to pursue in this matter is open and clear. I am for saying to the creditor, "Thus far shalt thou go and no farther. The home of every man shall be held

sacred." There is no mandate that comes home to the mind with such force as the will of the people, and anybody invested with legislative powers that seeks to contravene that will by delaying action or shifting responsibility justly incurs the opprobrium of a common constituency.—*Argus*, Dec. 8, 1846.

SATURDAY, DECEMBER 5, 1846

Prayer by the Rev. Mr. McHugh.

The reading of the journal of yesterday was dispensed with.

Mr. Dennis moved that an additional member be added to the committee on expenses in place of Warren Chase, who had returned home, which was agreed to. The Chair announced the appointment of Mr. Hunkins to fill the vacancy in such committee.

Marshall M. Strong, from the committee on engrossment, reported No. 10, "Article on the constitution and organization of the legislature," as correctly engrossed.

Mr. Dennis introduced the following resolution, which was read, to wit: "*Resolved,* That the following section be adopted into and form a part of the constitution of the state of Wisconsin:

"Section 1. There shall be no state printer in this state. The legislature shall contract for the printing of all laws and legislative journals to the lowest and best bidder, upon reasonable notice being given thereof; and as far as practicable all the state printing shall be contracted for in the same manner."

William R. Smith introduced the following resolution, to wit: "*Resolved,* That a committee of three be appointed to ascertain the amount of moneys which the treasurer of the territory has already received of the canal funds appropriated to the payment of the expenses of this convention, and what disposition has been made of the same, and also what funds are now available for the payment of the expenses of this convention." And the rules having been first suspended for that purpose, the said resolution was adopted. The President announced the appointment of the following committee under said resolution, to wit: Messrs. Wm. R. Smith, Joseph Kinney, and Fuller.

Mr. Harkin introduced the following resolution, which was read, to wit: "*Resolved,* That it is the decided conviction of this convention that any foreigner who is not willing to make oath to support the Constitution of the United States is not entitled to the right of suffrage."

The resolution introduced by Mr. Dennis, on the third instant, relative to an appropriation to Messrs. Varney and Andrus [Vial], was taken up and adopted.

The resolution introduced by Mr. Ryan on the fourth instant, relative to incorporating in the constitution an article relative to disqualification of officers, was taken up and read the first and second times and referred to the committee of the whole.

The resolution introduced by Mr. Bevans on the fourth instant, relative to paying the expenses of Mr. Burchard in contesting his seat, was taken up and adopted.

The resolution introduced by Mr. Baker on the fourth instant, relative to disqualification for office, was taken up, when A. Hyatt Smith moved that the same be laid upon the table, which was agreed to.

No. 10, "Article on the constitution and organization of the legislature," was read the third time. And the question having been put on the passage of the said article, it was decided in the affirmative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 73, negative 25; for the vote see Appendix I, roll call 216].

No. 32, "Article on the rights of married women and exemption from forced sale," was taken up. And the question being on concurring in the amendments of the committee of the whole thereto, a division of the question was called for.

The question being on concurring in the first amendment of the said committee, which was to amend the first section by striking out all after the word "all" in the first line, and insert[ing] "property real and personal of the wife, owned by her at the time of her marriage, and also that acquired by her after marriage, by gift, devise, descent, or otherwise than from her husband, shall be her separate property. Laws shall be passed providing for the registry of the wife's property and more clearly defining the rights of the wife thereto, as well as to property held by her with her husband, and for carrying out the provisions of this section," Mr. Ryan moved to amend the same by adding "and the husband shall in no case be liable for the contracts of the wife." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 22, negative 76; for the vote see Appendix I, roll call 217].

Marshall M. Strong moved to amend the amendment by adding the following: "In all cases where the wife has separate property, the same shall be liable for all debts contracted by her individually." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 40, negative 61; for the vote see Appendix I, roll call 218].

Marshall M. Strong moved to amend the amendment by adding the following: "Where the wife has a separate property from that of the husband, the same shall be liable for the debts of the wife, contracted before marriage." And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 90, negative 9; for the vote see Appendix I, roll call 219].

Mr. Lovell moved to amend the amendment by striking out the words, "as well as to property held by her with her husband." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 40, negative 52; for the vote see Appendix I, roll call 220].

Mr. Tweedy moved to amend the amendment by striking out the first section and inserting the following, to wit: "Section 1. The legislature shall enact suitable laws securing as far as it may be practicable to the wife and her children the enjoyment of all property, both real and personal, owned by her at the time of her marriage, or which shall be acquired by her after marriage by gift, devise, descent, or otherwise. *Provided*, That all such property shall be so registered as to be clearly ascertained and distinguished from the property of the husband." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 43, negative 56; for the vote see Appendix I, roll call 221].

The question was then put on concurring in the said amendment as amended and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 61, negative 35; for the vote see Appendix I, roll call 222].

On motion of Mr. Dennis the convention took a recess until two o'clock, P. M.

The article on the rights of married women and exemptions was then taken up. Mr. Ryan proposed to add to the first section that the husband shall in no case be liable for the contracts of the wife, which was lost, ayes 22, noes 76.

Marshall M. Strong then moved to add: "In all cases where the wife has separate property the same shall be liable for all debts contracted by her individually" which was lost, ayes 30, [40], noes 61.

Marshall M. Strong then moved to add: "When the wife has a separate property from the husband the same shall be liable for debts of the wife contracted before marriage," which was adopted, ayes 90, noes 9.

Mr. Lovell moved to strike out that clause requiring also a registry of the property held by the wife in common with the husband. He considered that a more dangerous innovation than any of the others in the bill.

It was opposed by Messrs. W. R. Smith and Judd, and lost, ayes 51, [40], noes 52.

Mr. Tweedy then proposed to strike out the whole and insert that the legislature shall enact suitable laws for securing to the wife and her children the enjoyment of her separate property as far as practicable, provided that a registry of the

same shall be made. He did not know but this thing might be done, but he had never seen a practicable mode. If this change is to be made, he thought it should be by the most skillful and learned men, who should be chosen to revise our code. Said he, "No man without a whole lifetime of practice can begin to foresee the consequences of this change."

He thought that until gentlemen could know just how it could be done with safety it would cause more mischief than could be calculated. He then spoke of the difficulty of registering the personal property of the wife.

Mr. Judd thought that this leaving it to the legislature would kill the whole thing. Then, said he, lawyers will rise up in all parts of the house and tell them it is impracticable as he had seen in New York. He warned gentlemen against these insidious attacks.

Mr. Tweedy said that was the very point. He felt that he should be recreant to his duty to the public and to his oath as a lawyer if he did not point out the difficulties. He was opposed to hanging dead weights to the constitution, especially when not called for.

The question was then taken on Mr. Tweedy's amendment, which was lost.—*Express,* Dec. 8, 1846.

TWO O'CLOCK, P. M.

Article No. 32 was again taken up. And the question having been put on concurring in the second amendment of the committee, which was to strike out the second section and insert as follows, to wit: "Forty acres of land to be selected by the owner thereof, or the homestead of a family not exceeding forty acres, which said land shall not be included within any city or village; or instead thereof (at the option of the owner) any lot in any city or village, being the homestead of a family, and not exceeding in value —— dollars, shall not be subject to forced sale on execution for any debt or debts growing out of or founded upon contract, either express or implied, made after the adoption of this constitution: *Provided,* That such exemption shall not affect in any manner any mechanic's or laborer's lien, or any mortgage thereon lawfully obtained, nor shall the owner, if a married man, be at liberty to alienate such real estate unless by consent of the wife," it was decided in the affirmative.

The question then being on concurring in the third amendment of the committee, which was to strike out of the second section all after the

words "to wit" and insert the words "forty acres of land with the improvements thereon, to be selected by the debtor," Horace Chase moved to amend the amendment by striking out the word "forty" and inserting the word "eighty," which was disagreed to.

Mr. Hicks moved to amend the amendment by adding, "In addition to what is now exempt by law, the homestead of every family not exceeding eighty acres of land, or in lieu thereof any town lot or lots not exceeding in value two thousand dollars may be made by law exempt from any forced sale," which was disagreed to.

Hiram Barber moved to amend the amendment by striking out the word "debtor" and inserting in lieu thereof the word "owner," which was agreed to.

Mr. Beall moved to amend by striking out the word "forty" and inserting the word "eighty." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 37, negative 58; for the vote see Appendix I, roll call 223].

Mr. Cooper moved to amend the amendment by striking out the amendment and inserting "the homestead of a family, including forty acres of land used solely for farming or mining purposes, or in place thereof, at the option of the owner, any lot in any town, village, or city in this state, of the value including improvements not to exceed one thousand dollars, and such personal property as may be provided by law," which was agreed to. And a division having been called for, there were 51 in the affirmative, negative not counted.

Mr. Rogan moved to amend the amendment by adding, "*Provided,* That forty acres shall be always liable to be levied on and sold by execution at law for any debts contracted for improvement or labor done by any mechanic or laborer upon such forty acres." And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 50, negative 47; for the vote see Appendix I, roll call 224].

Marshall M. Strong moved to amend the amendment by adding, "*Provided,* also, said forty acres shall be liable to be sold on execution issued on any judgment obtained for materials used in making improvements on said forty acres." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 39, negative 57; for the vote see Appendix I, roll call 225].

The question was then put on concurring in the said amendment as amended and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 36, negative 57; for the vote see Appendix I, roll call 226].

The amendments having been all disposed of, Mr. Parsons moved to amend by striking out the second section and insert[ing] the following: "The following property shall forever be exempt from all mortgage sales and shall be exempt from all judgments from levy and sale

upon any execution issued thereon, to wit: Forty acres of land which shall be cultivated by the owner, and any town, village, or city lot which shall be occupied by the owner shall be so exempted from such sale: *Provided,* however, That hydraulic power shall not be so exempt."

Mr. Graham moved to amend the amendment by striking out the same and inserting the following, to wit: "The following property shall be exempt from levy and sale under any execution (except for taxes and upon the foreclosure of mortgages) for debt, to wit: Forty acres of land or one or more adjoining lots in a village, town, or city on which the dwelling house shall be situated, not exceeding one thousand dollars in value. And where the value of the same shall exceed one thousand dollars then so much of the same on which the dwelling house shall be situated to be selected by the debtor (unless the debtor shall fail to do so) as will amount to one thousand dollars in value," which was disagreed to.

Mr. Lovell moved to amend the amendment by substituting the following, to wit: "A homestead of forty acres of agricultural land, or a lot or lots in any town, village, or city occupied by the head of a family, not exceeding in value the sum of —— dollars, shall be exempt from all lien by judgment, and from levy and sale on execution. Provision shall be made by law for the registry of such land or lots," which was disagreed to.

Mr. Noggle moved to amend the amendment by substituting the following, to wit: "Strike out the second section and insert as follows, to wit: Forty acres of land to be selected by the owner thereof or the homestead of a family not exceeding forty acres, which said lands shall not be included within any city or village, or instead thereof (at the option of the owner) any lot or lots in any city or village, being the homestead of a family, and not exceeding in value —— dollars, shall not be subject to forced sale on execution for any debt or debts growing out of or founded upon contract, either express or implied, made after the adoption of this constitution; *Provided,* That such exemption shall not affect in any manner any mechanic's or laborer's lien, or any mortgage thereon lawfully obtained, nor shall the owner, if a married man, be at liberty to alienate such real estate unless by consent of the wife." And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 67, negative 35; for the vote see Appendix I, roll call 227].

Marshall M. Strong moved to amend the amendment by inserting after the words "laborer's lien" the words "or the lien of any person who may have furnished materials to make improvements on such forty acres or town lots."

Mr. Randall moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

And the question having been put on the [adoption of the] amendment of Marshall M. Strong, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in

the affirmative were [affirmative 37, negative 58; for the vote see Appendix I, roll call 228].

The question was then put on adopting the amendment of Mr. Parsons as amended and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 63, negative 34; for the vote see Appendix I, roll call 229].

The question was then put on ordering the said article to be engrossed for its third reading and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 58, negative 40; for the vote see Appendix I, roll call 230].

Mr. Magone moved that the vote ordering the said article to be engrossed for its third reading be reconsidered.

Mr. Dennis moved to postpone the consideration of the said motion until Monday next, which was disagreed to.

Mr. Fitzgerald moved that the convention adjourn, which was disagreed to.

The question then recurred on the motion of Mr. Magone. And having been put, it was decided in the negative.

Mr. Graham moved that the rules be suspended and that said article be read a third time now. And pending the question thereon, on motion of Mr. Elmore, the convention adjourned.

Monday, December 7, 1846

Prayer by the Rev. Mr. Miner.

The reading of the journal of Saturday was dispensed with.

Mr. Hesk presented the petition of citizens of Waukesha County, asking that no additional oath be required of foreigners to entitle them to the rights of citizenship, which was referred to the same committee of the whole which shall have under charge the schedule.

Mr. Ellis introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on contested elections be requested to inquire into the expediency of paying the expenses of M. J. Bovee in contesting his seat in the convention against Charles Burchard."

Mr. Manahan introduced the following resolution, which was read, to wit: "*Resolved,* That the following be adopted and made an article of the constitution, viz., 'Section 1. Every act of incorporation which shall be passed by the legislature of this state [shall] at all times be subject to amendment, alteration, or repeal, at the pleasure of the legislature.' "

The resolution introduced by Mr. Dennis on the fifth instant, relative to state printer, was taken up, read the first and second times, and referred to the committee of the whole.

Moses M. Strong moved that the committee of the whole be discharged from the further consideration of said resolution and that the same be indefinitely postponed. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 49, negative 19; for the vote see Appendix I, roll call 231].

Mr. Ryan moved to reconsider the vote discharging the committee of the whole from the further consideration of [said] resolution, when Mr. Burchard moved a call of the convention, which was seconded.

Moses M. Strong moved that all further proceedings under the call be dispensed with. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 47, negative 27; for the vote see Appendix I, roll call 232].

The question then recurred on the motion of Mr. Ryan, when Mr. Burchard moved that the same be laid upon the table, which was disagreed to.

The question was then put on the motion of Mr. Ryan and was decided in the affirmative.

The question was then put on the motion of Moses M. Strong to discharge the committee of the whole from the further consideration of the said resolution and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the

affirmative were [affirmative 48, negative 42; for the vote see Appendix I, roll call 233].

Marshall M. Strong, from the committee on engrossment, reported No. 32, "Article on the rights of married women and on exemption from forced sale," as correctly engrossed.

Article No. 32 was then read the third time, when Mr. Lovell moved that the rules be suspended in order to refer the said article to a select committee of five, with instructions to amend the same, first, by striking out the first section; second, by substituting for the second section, in substance, the following: "A homestead not exceeding one thousand and five hundred dollars in value shall be exempt from forced sale on judgment and execution for any debt contracted after the registry of such homestead; and laws shall be passed providing for such registry."

And the question having been put on the suspension of the rules, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 37, negative 58; for the vote see Appendix I, roll call 234].

Article on the Rights of Married Women and on Forced Sales

Coming up on the third reading, Mr. Lovell moved to commit the article to a select committee of five, with instructions to report the article by striking out the first section, and to amend the section as follows, viz., "By substituting for the second section in substance the following: A homestead not exceeding one thousand five hundred dollars in value shall be exempt from forced sale on judgment and execution for any debt contracted after the registry of such homestead, and laws shall be passed providing for such registry."

Mr. Lovell moved to suspend the rules for the consideration of this motion.

Marshall M. Strong said that he understood that the friends of this bill had determined to pass it as it stands. The passage of this article would if passed compel him to use all his exertions against the adoption of the constitution itself. He then alluded to the course taken by the majority of the convention in relation to amendments offered by himself and Mr. Tweedy to the two sections of this article. The passage of this article would lead directly to the greatest frauds, and a consequence would be to bring the knaves of the world among us, and would induce men to seek redress by private punishments. It will

cut off all credits, and the business of the country will be placed in the hands of a few wealthy men. The destruction of the credit system will reduce men to barbarism. This second section amounts to an abolition of all laws for the collection of debts, and thereby will essentially injure the poor men by preventing them from obtaining any credit. He should vote for the reference, that its friends might make it what they desired; but would vote for anything that would get it out of the constitution.

H. Chase: If a forty acres is valuable it will pay the greater taxes towards the support of government.

He had no fear that the passage of this article would result in the ill consequences the gentlemen from Racine had imputed to it.

Mr. Judd said that he had heard the same cry of the indignation of the people and the prostration of credit, when the laws of exemption of a few articles and the body of the debtor from execution were passed in the state of New York. The result has shown the cry was not true, and no man dare advocate a return to the old system in that state or in any of those which have copied after them.

Mr. Ryan said that he knew by and from whom the opposition to the act to abolish imprisonment for debt in the state of New York came. It came from the safety-fund conservative, Old Hunker Democrats—that incubus on the Democratic party of that and every other state.

A. H. Smith feared that the ingenuity of the lawyers would contrive to convert all contracts into trespasses and then the protection will be evaded. There is no limit to the article, and it will enable a man to invest any amount on the forty acres, and make men nabobs. He was in favor of some exemption, and would vote for one properly framed, but could not for this.

Mr. Noggle replied at some length to the remarks of Marshall M. Strong.

Mr. Lovell said that his object in making this motion had been to allow the friends of the bill to make the article what they desired it should be.

Mr. Brace spoke against the general principles of the article.

The motion to suspend the rules was lost—ayes 37, noes 58, not two-thirds.—*Argus*, Dec. 8, 1846.

ON THE PASSAGE OF THE ARTICLE ON THE RIGHTS OF MARRIED WOMEN AND EXEMPTION FROM FORCED SALE

(Speech of Marshall M. Strong, December 7, 1846)

Mr. President: From the first day of the session until now I have anxiously watched over the formation of the constitution. I have not been absent at a single vote. I have felt the responsibility of the station as fully as if the people of the whole territory had been present and intently gazing upon us. I have passed over in silence many personal attacks. I had hoped that we should have formed a constitution which would have been a blessing to the people and an honor to the members of this convention, and although thus far it was not in some particulars what I wished it to be, I had determined to give it my active support. But I am told that the friends of this measure have agreed in a caucus to pass it as it is. If this shall become a part of the constitution, a sense of duty will compel me to oppose the whole instrument with my utmost zeal. I say it calmly, with mature reflection, and with deep regret. I shall state my reasons briefly, although the majority is evidently impatient.

I am aware that a number of my colleagues and personal friends, men whom I respect and know to be honest, are the supporters of the measure. I wish them to understand that, however strongly I may express myself, I mean no disrespect. I fully appreciate the humane motives which induce the action of some here—they desire to shield the poor from want and destitution and to prevent the abuses of credit.

Each of the propositions contained in this article is novel. Nothing similar to them can be found in the constitution of any state except Texas, and surely we will not go to that noted asylum for all the desperadoes in the country for examples of

public morals and correct laws on the collection of debts. Nor is any such principle as that contained in the second section to be found in the statutes of any state. It is no place here to experiment. If such provisions ought to be made, they should be by legislative enactment. They are not necessary in the constitution—they do not affect any of the departments of government, executive, legislative, or judicial—they are mere laws and need all the checks, guards, and details of statutes. Even then, if drawn with the greatest care by the ablest men, they would require continual amendment from year to year as circumstances should develop their imperfections. But the majority here has rashly and inconsiderately determined to place them at once into the fundamental law of the land.

It may be well for us to pause for a moment and consider the progress of this measure in the convention. The article as originally reported was generally considered to be the greatest absurdity ever proposed to a deliberative assembly. It was first taken up on Friday evening last and considered, or rather the time was spent upon it, amidst the greatest uproar and confusion. It was again considered on Saturday. In the forenoon I offered an amendment to the first section, when the member from Dodge (Dr. Judd) immediately arose and said that the amendment was offered by an enemy to the article, that it was insidious, and he called upon all the friends of the measure to stand up to it and vote down the amendment. They did so, voting by the ayes and noes. I immediately offered a second amendment; the member from Dodge said he should vote for it, and some other member said that a good thing might come from a bad source, and it was adopted almost unanimously. Soon after, the gentleman from Milwaukee (Mr. Tweedy) offered an amendment and supported it by a calm, courteous, statesmanlike, argumentative, and, I will add, unanswerable speech of some thirty minutes' duration. He stated that he had thought and read much upon the subject for a few years past—that if the section passed as it stood it would make inextricable confusion in the laws and lawsuits innumerable. I doubt not but that he actually convinced three-fourths of the members present of the correctness of his posi-

tions. No reply was made to it except that the member from Dodge stated that it was an insidious amendment and that it had been proposed by an enemy to the article, whereupon it was voted down by a large majority.

An insidious amendment! Did the member from Dodge wish to be understood that the amendment had a hidden meaning which did not at once appear? That, although it purported to perfect the article, it was designed to destroy it? And that all the remarks made by the gentleman from Milwaukee were designed to deceive the convention? His language could mean nothing else. The house endorsed it by an overwhelming vote. Sir, the gentleman from Milwaukee deserves better from this body. His services have been too valuable here, and his course has uniformly been too open, frank, and honest, that he should be thus branded as a practicer of deception. These are humiliating scenes. I have felt the indignity, but this feeling has been entirely absorbed in the profoundest regret at the great wrong we are about to do to the constitution and the deep disgrace we shall fasten upon the territory. Thus, sir, with such haste, such confusion, such rashness, such passion, we are about to make a law, which it is intended shall continue for years, and affect hundreds of thousands of persons in all their business transactions and in all the relations of life. But enough. I hasten to speak of the measures themselves.

My colleague (Mr. Ryan) has shown very ably and conclusively that the principle contained in the first section is fraught with evil, and the gentleman from Milwaukee (Mr. Tweedy) has shown as ably that it is as utterly unsafe and impracticable to attempt to carry it out in the constitution. I will not repeat their arguments.

The second section provides that forty acres of land, to be selected by the owner, shall be exempt from sale on execution issued on judgment obtained for debt contracted after the adoption of the constitution. There is no limit to the value of the land. There is many a tract of forty acres in the mining region worth from five thousand dollars to forty thousand dollars. It may be situated adjoining a village or city, or may contain valuable hydraulic power, or it may have buildings

and improvements on it to an unlimited value. The tract is not required to be selected or registered before the debts are contracted. The debts may be contracted in any state of the Union by residents of this state or of other states. Indeed the owner of the property thus exempted is not even obliged to be a resident of this state. Sir, this is the most outrageous, the most flagrant, and the most stupendous provision for fraud that was ever devised. It is worthy of the annals of the French Revolution. When properly translated it means this: "Every person who can after the adoption of this constitution in any manner obtain the property of his neighbors or of strangers to an amount not exceeding $100,000 shall be protected in the enjoyment thereof, and the real owner shall be forever deprived of it."

Or this:

"Every knave in any state of the United States or in any other country, and every person who, under great temptations may be induced to become knavish, who shall hereafter obtain the property of others by such means as to be liable only in an action of debt, and shall bring the same to this state, shall be forever protected in the free and unmolested enjoyment thereof, under the broad shield of our glorious constitution."

I would as soon vote to have either of these translations in the constitution as the original. Suppose a man in embarrassed circumstances residing in some town in the state of New York near a farmer worth some five thousand dollars. Under some pretence he procures his endorsement to that amount. Having obtained the money, and read our glorious constitution, and converted his property into cash, he comes to Wisconsin and purchases a valuable flouring mill and the forty acres upon which it stands. Soon the farmer is compelled to pay the endorsed notes; his property is all sold for that purpose; his wife and children are turned out upon the world, destitute and penniless. He follows his worthy neighbor to Wisconsin, ascertains his place of residence, calls upon him, and finds him sleek, contented, surrounded with all the luxuries of life, and perhaps exceeding polite withal. But the farmer is informed that it is not convenient for the man to pay him then.

He calls upon a constitutional lawyer to ascertain what remedy he has, and the lawyer very gravely says to him—

"Sir, the law furnishes you with no remedy. Our wise men in the days when the constitution was made anticipated such cases as these and have expressly provided that your worthy friend shall be protected in the enjoyment of what he has. Possession formerly was only nine points in the law, but it is now ten. The reason of the law is this, that every man should be protected in holding what he has in his own possession, no matter how he came by it, for lawsuits to ascertain these conflicting rights are very expensive. Besides you should not repose confidence in any of the human race, and as it seems you have, you are therefore justly punished therefor."

But seriously, sir, what think you would be the emotions of that man when he found that for him there was no legal redress? Would he not at one and the same moment think of his destitute family and of the robber who had destroyed him? Would there not be a hell in his bosom? Would he not again seek out the villain and redress his own grievances? Would he not be tempted to resort to violence and even bloodshed? The crime of Bonham, who was lately convicted of murder, grew out of a similar state of things. He owned an undivided half of a claim to a mill seat. Keene, the victim, owned the other half. Keene obtained the legal title to the whole. Bonham had no protection in law for his half and therefore undertook to enforce his right with his own hand; hence the murder. Pass this act, and I predict that violence and murder will abound. In a barbarous state of society each man redresses his own grievances. When man becomes a member of civilized society he is under the protection of the laws and is not permitted to obtain his right by force. You propose in this instance to take away all the redress the law affords, and do you suppose that men will not then resort to the remedies which they had in a state of nature? Thus, this section not only offers a splendid bounty to all the villains in the world to resort to Wisconsin, but it invites lawlessness and murder. Sir, I dare not vote for this section! I will not vote for the constitution if it contains it, either here or at the polls. But,

on the contrary, will spare neither time, or exertions, or means to defeat it. What, shall Wisconsin be disgraced among the nations of the earth? Shall she have fraud blazoned forth in flaming letters upon her constitution? No, the moral sense of our people forbids it. Retain this section and they will reject your constitution with scorn. They owe it to themselves and they will do it. They will set their mark of indignation upon it.

But, say some of the friends of the section, "Frauds are practiced under all laws; you cannot prevent them."

When practiced now they are evasions of the law. But when practiced under this section they will be in full compliance, not only with the letter but with its spirit. Some have told me this is precisely what they desire. They wish to make that legal which is now fraudulent. What can be said when such abominable sentiments are so unblushingly avowed? Others who are supporting this article are deluded; they are frantic. I say it in charity.

This article will prove destructive to the best interests of society in another manner to which I will briefly revert. No matter how much property a man may have, or what kind of property it may be, so long as he is able to convert it all into a valuable forty acre tract, which will be exempt from execution, no man can trust him without knowing that it is in the debtor's power at any time to deprive him of all legal remedy to collect the debt. The consequence is, then, that at one fell swoop you destroy all credit. "Yes!" say some (I think there are about twenty of them) "That is precisely what we desire!" They have seen the abuse of credit and its evils, and therefore wish to destroy credit itself. It would be about as wise to say that we should not eat because we sometimes eat too much, or should not sleep because we sometimes sleep too much, and that every good thing in this world should be prohibited because it is sometimes abused.

Sir, all my reading and reflection have taught me that those are the best laws which tend the most to bring capital and labor together, but by this section you place them wide apart. Capital without labor is good for nothing because it produces

nothing. Labor without capital in the present state of society is of little worth. Man can do little with his bare hands. He must have a shovel or an ax or some implement, and this is capital. The farmer must have his farm, his agricultural implements, and his stock, and this is his capital. The mechanic needs for his capital tools and a stock in trade. The manufacturer's machinery is his capital, and how much more productive is the labor of a hand there than at a spinning wheel. What, destroy credit! Destroy trust and confidence between man and man? Make every man an isolated being in society! Would you reduce us to the barbarism of Turkey, where there are no debts? Would you say that the capital of the widow, and of the orphan, and of the capitalist should lie idle and unproductive, and thus impoverish them? And that, too, when a poor man needed it, and thus impoverish him? Is there a farmer here who could not profitably use more capital upon his farm? Have not some of you greatly suffered for want of it? Are you all prepared now to carry on your business and support your families until another year's crop shall be gathered, especially if sickness should visit you, without incurring a single debt? Sir, man is a discontented being. He dwells mostly upon the evils of his lot. In the full enjoyment of health he prizes it not, but the moment the least sickness comes he is loud in his complaints. Thus have they done with credit, which is not only the bond, but the distinguishing mark of civilized society.

But, sir, the evils of credit have borne no comparison to its benefits. I have resided in Racine County for ten years and during all that time there has not been a single homestead sold in the north half of it on execution which has not been redeemed. And the farmers there have been very seldom sued for debt. I appeal to my colleagues for confirmation of this statement. I believe that ninety-nine hundredths of the credit given there has proved beneficial. Now, sir, a majority of those who support this section do it upon the broad principle that all laws for the collection of debts should be abolished. Is it possible that in the year 1846, in a convention of picked men to form a constitution for a sovereign state, it should be necessary to refute such doctrines?

It is said that the people demand this provision; that it is popular; that your table is covered with petitions. I have seen the petitions; they are printed and I am credibly informed that great pains have been taken to circulate them. We all know with what facility names can be obtained to petitions, especially where the object is plausible and apparently humane. Three or four active men could have caused as many petitions with as many signers to be sent to you on almost any subject. I am well satisfied, too, that a public opinion upon this subject has been industriously manufactured here from the commencement of the session. I have frequently had occasion to observe that the public opinion at the capital, however overwhelming, however much it might be brought to bear upon those who trimmed to the popular breeze of the day, was not the public opinion of the territory. There is always around us a vast jury of sober, right-minded men, who are not politicians and have their own opinions, and what is right and just I have ever found to be their verdict. But, sir, what do these petitioners ask for? The exemption of a homestead, and not for the protection of an unlimited fortune. If their petition had been complied with—although I do not think they would have derived from it the benefits they expect—it would have been comparatively unobjectionable.

But if the principle were correct, the section itself is so crude and imperfect that it should have place in no constitution. It does not carry out the doctrines of its supporters, and there is not one in ten of them who are satisfied with it. Why say that the mechanic or laborer in the village should be limited in the amount of his property exempted and the resident in the county unlimited? Why limit the exemption in the village to a homestead and not place the same limits upon property in the country? Why not permit the citizen of a village owning a homestead worth $1,100 to hold some property exempt? If the object is to protect the poor, why not exempt the property of those who are not able to be freeholders? Who are compelled or find it to their interest to live in hired tenements? Are they too poor for your tender mercies? If the object is, as claimed, to provide the wife and children a home in case of the dissipa-

tion, extravagance, or folly of the husband, and therefore you say he shall not alienate it without her consent, why permit him to mortgage it, to lease it, to confess judgment which shall be a lien upon it, and consent that it may be sold on execution? If you intended to exempt a homestead according to the prayer of the petitioners why did you not say that the forty acres should be a homestead and that the exemption should not extend to the property of single men and nonresidents of the state? Why should a single man be permitted to own forty acres exempt from execution and not a town lot? What do you mean by a village? An incorporated village, a piece of land, a plat of which has been recorded, or a place where there is a near neighborhood of families? If you give the mechanic or laborer who works upon the premises a lien, why not the mechanic or laborer who worked off the premises and furnished materials to make improvements thereon? Does the working on or off a particular tract of land make any difference in the justice of the claim? Yet, when I proposed to place these laborers upon an equal footing, I was denounced as the mover of an insidious amendment. Your sympathies seem to run in strange channels; you like the carpenter and mason, but have no affection for those who make brick and lime and lumber. Sir, the whole section is ill digested, incongruous, carrying out no principle, and violating every one which has been avowed by its friends, except that of those who wish to legalize frauds. If such a thing could have happened that there had been a union of unprincipled and honest men for the purpose of adopting a measure of this kind, and they had agreed upon this section, the former would have had entirely the advantage.

It is humane and praiseworthy to sympathize with the sufferings of those wives and children whose husbands and fathers are intemperate, idle, extravagant, or reckless, and it is philanthropic to seek to alleviate them. But these sufferings are attached to such courses of life by the immutable laws of the Deity, and it is worse than useless for us to try to repeal those laws:

> How small of all that human hearts endure
> That part which laws or kings can cause or cure.

The language which this section holds to the people is the following: "You are in danger of becoming intemperate, and we will protect you from it. You abuse your credit, and we will guard you against your own imprudences." Sir, man's free agency is his loftiest and proudest attribute, and when you trench upon it in the slightest degree, you offer him the greatest indignity. The people will scorn such proffered kindness; they will spurn your guardianship and be indignant at the intimation it contains. The people of this territory have made their own fortunes, they have worked out their own way in life, and if there is any trait of character for which they are peculiarly distinguished, it is that of self-reliance. They have, too, a high sense of the obligation of debts, and would not care to avoid their payment even if they had an opportunity. I have often said that in this respect the character of our people is far above that of the citizens of Illinois, Michigan, or those of most of the western states, and I know that it is so regarded in the eastern cities. I say this not to flatter the people. I despise demagogism from the bottom of my heart. It is the crying evil of our age and country. It falls like a blight upon the greatest men of the nation. It causes them to shake like aspen leaves in every little popular breeze, however circumscribed it may be in extent or in short in duration.

Since I have been here I have been gravely told an hundred times that I have been shut up in my office and know nothing about the will of the people and am entirely behind the age. Sir, I have represented Racine County for four years in the legislature and have never been instructed by my constituents or warped from my course by lobby members. I have never gone about the county to gather the opinions of this or that knot of men, but have seriously set about by study, reflection, and conversation to ascertain what was right, and have then acted accordingly, and by so doing have complied with the will of my constituents. And I say further that I would not vote for this section if every one of my constituents desired it, but would resign. A representative cannot vote for an immoral measure and shield himself from responsibility by

thinking or pretending to think that he is instructed or by being actually instructed. No man under any circumstances can knowingly and innocently be made an instrument to do an immoral act.

Sir, I shall vote for the reference to the select committee with the hope that the friends of the measure will make it less objectionable. Since I learned that it must pass in some shape, I have been unwearied in my efforts to improve it and have sought private interviews with all the friends of the measure to whom I could gain access and who would be likely to listen to me. I stated to them frankly and fully all my views upon the subject and warned them of the evils which I feared from it. I besought them most earnestly to give the subject a more careful consideration, but my admonitions they have not heeded. I am disheartened. I have never before witnessed in the consideration of any great measure such a fixed determination not to hear, not to feel, not to think. It has been called the poor man's law, and those who would not sustain it have been denounced as aristocrats and hard-hearted oppressors. Sir, it is the poor man's destruction and the knave's magna charta.

Should this section pass as it is, and the people adopt the constitution, I predict—and mark my words—those who hear me now, whatever their present opinions may be, will respect me the more for the plain manner in which I have spoken. One gross instance of fraud under this section will so shock the moral sense of the whole people of the territory that they will imperiously demand its repeal. And we shall not have one such instance alone, but hundreds: Our whole country will be a den of thieves.

Sir, when I see such a general invitation for the most stupendous frauds about to be engrafted into our constitution and know that violence and bloodshed will follow in its train—when I see that the business of the country is about to be cut off by the destruction of credit and think of the attendant distress—when I think of the disgrace which will attach to the name of Wisconsin abroad and the blush of shame which will crimson the cheek of every honest citizen who loves his adopted state—

and when I remember the furious manner in which this measure has been carried and the large majority it has obtained—I have no hope left except in the purity and integrity of the people.—*Express,* Dec. 15, 1846.

EXEMPTION AND THE RIGHTS OF MARRIED WOMEN

(Speech of Mr. Noggle, in convention, December 7, 1846)

Mr. President: I will ask the indulgence of the convention for a few moments, while I answer a few of the arguments of the gentleman from Racine (Mr. Strong) against the article on the rights of married women and exemption of real estate from execution.

Sir, until this moment I had designed casting a silent vote in favor of the article; but, sir, when a provision, proposed to be made a part of the fundamental law of the land, one founded in so much equity and justice as is the one now before us, containing principles in which the honest laborer, the poor man, and the honest yeomanry of the country are so deeply interested, I cannot silently sit by and witness the sophistical assaults of the gentleman from Racine upon the article and its friends without endeavoring in my feeble manner to free it from some of the abuses by him thus heaped upon it. Doubtless the gentleman closed his remarks in full confidence that he had totally annihilated not only the article but its friends also.

Sir, I listened to his sedate, sanctimonious, and affected ministerial denunciation of the doctrines of the article with great attention, and the more so because it came from one who[m] I had long placed great confidence in as a public man, one for whom I had heretofore entertained the highest respect personally and politically; and when he closed this valedictory I could scarcely make myself believe that a gentleman in whose soundness and correct democratic principles I had so long confided had been addressing the convention. I was much inclined to the belief that the speaker was some old superstitious conservative, and after hearing his able speech and seeing him take his seat apparently with great complacency, I really for

the moment was much inclined to imagine that we had just witnessed Wisconsin's funeral sermon.

The gentleman says he has besought the friends of this article most earnestly to endeavor to get them to improve it; that he has sought private interviews with them; that he warned them of the evils that would grow out of it; but they have not heeded. Sir, his entreaties were unsound; they had not the interest of the common people at heart. The friends of the article had been too forcibly impressed with the gentleman's determined hostility to believe him sincere in his pretended desire to make the article more perfect; they believed he was seeking its destruction by parliamentary technicalities, all of which was his right and for which none complain. The gentleman thinks it very hard that the friends of this measure should determine in caucus to support it. Does he deny their right to do so? Does not the gentleman caucus with his friends upon every favorite measure of his? Yet because the friends of this measure have seen proper to pursue the gentleman's practice, he solemnly concludes that if this article is made a part of the constitution he must and will oppose its adoption by the people, and that, too, with his utmost zeal. Sir, was it the caucus that alarmed him? Had not the article been ordered to be engrossed for a third reading by a decided majority previous to any caucus being held, and that, too, in despite of the gentleman's ingenious opposition? Yes, sir, and the gentleman found himself in the minority, a position that doubtless always gives him pain; he found himself contending against the true interests of the common people; he saw that a great and noble principle was about being engrafted into our constitution; that at last a small species of legislation was about to be sent out to the world professing to guard the best interests of the common people, and—what is still no doubt painful to the opponents of this article—it did not originate with them.

The gentleman from Racine condemns the article for two reasons: First, because the constitution of Texas contains similar provisions, and second, because no such provisions are contained in the constitution of any other state. Therefore Wis-

consin must forbear; she must not experiment; she must not improve.

I will answer the first objection by simply saying that when Texas does a correct or a good thing Wisconsin should have sufficient sense of justice to give her credit for it and not pass condemnation upon correct principles merely because they had their origin with Texas. As to the second objection, I have only to say, that from the very highest Democratic authority the principles contained in the Texas constitution upon the subject of protecting the rights of married women and of exemption of property are strongly recommended and highly approved. I would also say that the age in which we live is an age of improvement as much for Wisconsin as any other state in the Union.

It is said that the article is properly a statute law and should not be in the constitution. Sir, there are strong reasons why this article should be in the constitution, if it exists at all. First, because it is the declaration of a great general principle, and should be uniform and permanent, and should be placed beyond the power of the legislature to increase or diminish, alter or repeal at pleasure; otherwise, momentary excitement would tend to interfere unfavorably with great general principles, and would thereby produce an unsettled state of things to the great injury of both debtor and creditor, all of which will be most effectually reminded by the constitutional provision. The whole matter in relation to the practicable operation as to detail is with the legislature, and with that body the friends of the measure are now willing to leave it, believing that they will provide amply for carrying into effect the true spirit, meaning, and intention of the fundamental law. If we should finally make this article a portion of the constitution without fixing the value of the real estate exempted thereby, the legislature will take care of that deficiency. But, sir, I believe that all such imperfections will yet be perfected before our constitution is finally completed. I am in favor of fixing the value of the forty acres of land so that it shall not exceed one thousand dollars. But the enemies to the article as yet have prevented the friends making the improvement they desire.

The gentleman from Racine appears to pass condemnation upon the convention for their treatment of himself and the gentleman from Milwaukee (Mr. Tweedy). With that I have nothing to do; I have discovered no improper treatment towards either gentleman upon this floor.

Reference is made to able arguments made against the first section of this article as proof positive that we should not support it and that it must be wrong. Does it follow as matter of course that right is always on the side of able arguments? Does an able argument make a false position correct? No one doubts that either of the gentlemen referred to can make able speeches, even on behalf of false and incorrect positions. I do not deny that in discussing the section in relation to the rights of married women, and finally the whole article, the gentlemen who oppose it have played the lawyer well; yet the verdict of this convention and the verdict of the people of this new state will be against them upon this subject.

Sir, I think I have witnessed more unfairness in the discussion of this article than any other before the convention; both the gentlemen from Racine (Mr. Strong and Mr. Ryan) and the gentleman from Milwaukee (Mr. Tweedy) have assumed as the basis of their arguments that females, that wives, are common combinations of fraud, deception, and dishonesty. No other construction can reasonably be put upon their arguments; yet I have too much charity to believe that they will willingly subscribe to such a doctrine. No sir; it is an imagination produced by lashing themselves into excitement upon a false and erroneous idea that all is about to be lost merely because we are inclined to extend some small rights to the better half of man as well as to man himself. Sir, these gentlemen tell us that the gentle, fair sex are so destitute of virtue and integrity that they will sell their peace for pence—always in the market ready and anxious to traffic away their domestic happiness for dollars and cents—that the intelligence, integrity, virtue, and excellence of your mothers, your wives, and your daughters depend wholly upon legislative action. Consequently they are greatly concerned for all future husbands if this article should finally be adopted.

Sir, I hope every member upon this floor will reflect for one moment upon the character and true worth of that class of poor, helpless females that will be benefited by the article under consideration. They are generally unfortunate beings. Let every member ask himself the question, Is it true that the mother that gave him birth, who so kindly watched over the tender years of his infancy with so much care and devotion, would barter away her affection, her parental kindness, and her devotion for pence? Is it true that his bosom companion, the young, intelligent, and lovely wife, with all her apparent innocence, who, for his personal worth and merits alone abandoned the parents' rich and stately mansion, separated herself from friends that were near and dear to her to embark with her bare-handed husband for the far West, taking in all probability the last farewell of friends, affluence, and luxury, would ever for the mere paltry consideration of dollars and cents become the tyrant of him she thus loved and adored? Who believes that merely giving her the right by the constitution to hold her own property in her own name (or in other words, her property shall not become liable for her husband's debts) will alienate her affections? Who believes that it will make a fiend of a worthy wife? No one believes it; it is all humbug. Women are as clear of being operated upon either for better or for worse as men; yes, I may safely say much more so. Sir, I do contend that for true merit the female sex stand much higher than the male. They know but little of the low, truckling, vacillating demagogism that pervades the male portion of creation, and in that particular their ignorance is a jewel.

Sir, the adoption of this first section will doubtless at [once] raise many poor and indigent families even in this new state from destitution and want to a comfortable and honorable situation. Yes, sir, adopt this, and many now, as it were, naked, will be clothed, and the hungry will be fed by the hands of kind and benevolent parents and friends, who no doubt have an abundance and to spare, and will then dare to provide for the happiness and comfort of their daughters and our wives, knowing that it is not in the power of a reckless husband to spend it. Yes, sir, our constitution will blaze forth the fact

to the world that we are saved. The kind hand of charity may safely fall upon the poor and the needy, and still be elevated far above the hand of a prodigal husband. And will such a state of things produce misery and distress? Will such a state of things beget fraud in society? I answer, No, never! I will tell you what it will beget. The little, humble cottage will no longer be the asylum of grief alone; it will be no longer inhabited by the half-starved and half-naked human beings. The light of education will at once burst in upon them then. Then, sir, with what sincere sympathy would the wife open every cell of her noble soul to receive the effusions of her husband's misfortunes and mitigate his woes. She would pour the tear of benevolence into his pecuniary wounds. Deeply practiced in the school of affliction, her heart would know no joy of which she had not been deprived, no sorrow of which she had not drank. Fortune could present no grief unknown to her. Where then would be the evil? Who can so safely dress the wound of the reduced husband as the affectionate wife, who has felt the same wound herself? Ah! gentlemen say she is not to be trusted! She will traffic all this worth and excellence, peace and comfort for pence! Oh! shame on such doctrines, and the preachers of it! Elevate your wives and elevate your daughters, and you elevate the race that follows.

The gentleman from Racine (Mr. Strong) appears greatly alarmed at principles contained in the second section of the article under consideration. In this section he has discovered great opportunities for fraud, and, what is still worse, he cannot see any good in it, and to me the reason is obvious. Self-interest strongly urges me to forget its merits and turn with an eagle eye to its demerits.

I am fully aware, Mr. President, that the adoption of the section of the article under consideration will be a most fatal blow at the profession to which I have the honor to belong. But whether it does or does not is not now the inquiry. Is it right in principle? Will it produce the greatest good to the greatest number? If so, it is right; and, sir, having full and entire confidence in its universal benefits, I give it my hearty support, regardless of any injury my profession may receive

from its operations. I have always been opposed to special legislation for the special benefit of any particular class or profession to the injury of others. Gentlemen seem very indignant at the idea of providing for the poor man and not for the rich. Sir, it is too true for the credit of this country, that the greatest portion of its legislation is designed alone for the rich; the motto is too common, "Take care of the rich and the rich will take care of the poor. And now strange it is that when this article made its appearance, raising but a feeble appearance in behalf of the poor laborer, we should so suddenly hear the cry of "fraud, fraud, fraud," from so many honorable members upon this floor, who would not have been in the least suspected of having the interests of the common people at heart. If I believed their cries I certainly should oppose it, but I do not. If I did not believe it to be a most righteous provision I would oppose it. Sir, I most assuredly do.

The gentleman from Racine says he believes it will make knaves and rascals. Sir, I believe it will tend to elevate the poor; it will level up instead of down; it will tend to make the lower classes of community independent, high minded, and honorable citizens. I freely admit that it will in a small degree affect the credit system, and, sir, in this lies the whole secret of the opposition to it. In that respect my business will be injured by it. Merchants and attorneys doubtless feel a great interest in its defeat; it is the supposed effect that it will have upon the present useless credit system that the gentleman from Racine mourns over so bitterly. I believe it will serve as a constitutional restraint over the poor man, entreating him to ponder well before he runs in debt for that which he does not want merely because he can get it on credit, and particularly when that credit has to be obtained by a mortgage upon his home. Yet the title farm is no less the poor man's capital, because it is exempt, because he can, if necessity require, mortgage it for all it is worth to obtain means to operate upon; and for that purpose it could be worth no more to him if it was not exempt; but, being exempt, he is much more cautious in exposing it. Sir, let the provisions of this article once become the fundamental law of the land, and the number of debts and the

number of lawsuits will be greatly reduced. In that respect this will be a radical change; but I am well satisfied it will be a change for better, and particularly better for the laborer, retail dealer, and small tradesman. It will protect the former from oppression; at the same time it will tend powerfully to render them more provident and considerate. It will teach the latter to exercise that discretion in the granting of credit which is indispensable; and I am quite sure that it will be publicly beneficial by strengthening the moral principles and making the contraction of unnecessary debts without the means of paying them at once difficult and disgraceful. But, under the present state of things all are trusted, and much unnecessary credit, doubtless, is given, when the prospect of pay is small and uncertain, to avoid losses upon which, high prices are put upon goods in order to make him who buys goods and pays for them also pay the losses the merchant suffers on account of bad debts imprudently contracted. A fundamental law like the one now under consideration would not, entirely, as the gentleman imagines, annihilate credit; but it would no doubt annihilate that spurious, indiscriminating species of credit that is [as] readily granted to the spendthrift and the loafer, who never desire any property or means to be sheltered by the exemption, as to the industrious individual; yet, to the same extent that it enabled the former to obtain credit and accommodation, it would exhaust the means and the substance of the honest, prompt-paying debtor by making him pay (in the shape of high prices) the losses occasioned by accommodating the prodigal. Again, we shall cease to see men who have small comfortable homes opening accounts at our shops, offices, and our stores for the purpose of contracting useless debts unnecessarily; and while in that situation, with our debts hanging over them, they dare not leave our shops, etc., when they are already greatly in arrears, and when they dare neither object to the quality of the goods offered to them nor to the price charged to them. It has been truly said that, "He that once owes more than he can pay is often obliged to bribe his creditor to patience by increasing his debt; worse and worse commodities of higher and higher prices are forced upon him, he is impoverished by compulsive

traffic, and at last overwhelmed in the common spectacles of misery by debts which without his own consent were accumulated upon his own head."

Mr. President, I exceedingly regret to say that the gentleman from Racine has given us his solemn promise today upon this floor that, if this article is adopted, he will not only go home and vote against the constitution, but will spare neither time nor means to defeat it. Sir, let him dare to do it; such threats shall never deter me from what I deem to be right. The gentleman prophesies that the people will reject the constitution on account of its liberal provisions—and, sir, I prophesy that the people will reject him who dares to oppose it. The people will teach all such that they have sense enough to approve of that which so amply provides for their best interests; their lesson will be a sore one upon the heads of those political aspirants who have only their own interests and their own promotion at heart.

The gentleman from Racine despises demagogues from the bottom of his heart as much as to say that all who support this measure are demagogues. Sir, it is a very correct maxim that persons of similar pursuits and similar practices have great aversion for each other. Who upon this floor has been more justly suspected of quivering in the wind and trimming their sails to the breeze than some of the opponents of this measure? And who would be more suspected of playing the demagogue here than the gentleman himself? I would answer none. We are told that the people will scorn such proffered kindness. If the people allow themselves to feel more for the shopkeeper and the lawyer, and, in addition, believe all that the opponents of the people's best interest say, they most certainly will; but we are not yet quite ready to believe that gentlemen can fool the people so easy. The people are generally right, and with them I am willing to leave it. The people have sense enough to know that the gentleman preaches false doctrine when he assumes that making men independent makes rascals of them. They know, sir, that the very germ of fraud is necessity. Remove man's dependence and you remove in a great measure the inducements to dishonesty; but reduce him to penury and

want and still continue to oppress him and you invite him to commit fraud, knavery, and every other species of robbery or dishonesty to sustain himself. Make your laws search the poor man's granary, his closet, and his bedroom to satisfy its execution, and you teach him to hide their contents; and, sir, the people know this full well.

We are told that the section exempting real estate from forced sale does not go far enough, that the exemption should be complete from all liabilities whatever, and that the owner should not be permitted to mortgage in any case. Sir, in this I differ with gentlemen; the right to mortgage, in my opinion, is but just. Many cases may arise where it would be but just and proper for the owner to use his small home as his capital to assist him in business, and in such cases I am willing to let him be his own judge; if you do not give him the right to mortgage, you compel him (in case of necessity) to make a temporary sale of the homestead. You by this make the loss of his place more probable than in case of a mortgage.

In relation to exempting from all liabilities whatever, criminal as well as civil, you take away one of the great restraints of crime; in fact it might with much propriety be said you offer an inducement to commit crime. Again, we should consider the relative position and situation of parties. Examine our criminal docket from one side of Wisconsin to the other and you will find that much the largest number of convictions have been of persons who never had nor never will have any property to exempt. That but few, yes very few, indeed, that are owners of one thousand dollars worth of property are found guilty of offenses against the law. While, on the other hand, if our object is charity and the interest of the poor man, we must also look well to the other side of the picture and see what class is most usually the victims of crime. Is it the rich or the poor that suffer most from the commission of crime? I undertake to say that nine cases in ten the poor man is selected by the criminal as his victim. Will this convention say that the villain may with impunity burn his poor, indigent neighbor's house or barn, that he may steal his horse or kill his last cow, and when the judgment of the law says he shall make good the

poor man's loss he shall then be permitted to shirk behind an exemption to avoid the liability, and thus reduce his victim to pauperism! I should hope not. Liabilities for crime are very unlike civil liabilities; a civil liability is the result, the discretion, conclusion, and assent of both parties. In the commission of crime the unfortunate victim is not consulted; he has no notice or warning of his danger; consequently his remedy should be complete and to the full extent of the means of the criminal. But in the case of civil debt the creditor has ample notice of the ability of his debtor when he trusts him, and cannot claim to credit him on account of his property that is not liable to execution, and should always be satisfied with the same rights to collect under that which existed when the debt was contracted. In drawing the section I designed to make it a complete exemption in all cases of civil liability, but, sir, I did not design to give the criminal the advantage of such a provision. I go for restraining crime and not inviting it.

Now, Mr. President, where are the great evils that are to grow out of the provisions contained in this celebrated article? They are not to be found; they are imaginary; they are ghosts, such as scare children in the dark.

Sir, it is said that this is a new, novel, and dangerous doctrine that we are about to engraft into the constitution; that it is antidemocratic. Is that true? Is it true that a doctrine that pulls down aristocracy and rears up equal rights—a doctrine that removes entirely the dependence of the poor upon the rich is antidemocratic? Not according to my ideas of democracy. To some this may be new and novel, but, nevertheless, it is the Democratic doctrine of the day, and as such it is trumpeted throughout this Union by the Democratic press. The *Democratic Review* of April, 1846 contains the following beautiful and concise reference, to wit:

"The following provisions are unknown to any other American constitution and contain principles of exceeding importance and value. We hope that in some form they may find their way into the fundamental law of the whole confederacy: Texas *Constitution,* section 19: All property, both real and personal, of the wife, owned or claimed by her before marriage,

and that acquired afterwards by gift, devise, or descent shall be her separate property, and laws shall be passed more clearly defining the rights of the wife in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

"Section 22. The legislature shall have power to protect by law from forced sale a certain portion of the property of all heads of families. The homestead of a family not to exceed two hundred acres of land (not included in any town or city) or any town or city lot or lots in value not to exceed two thousand dollars shall not be subject to forced sale for any debts hereafter contracted; nor shall the owner, if a married man, be at liberty to alienate the same without the consent of the wife, in such manner as the legislature may hereafter point out."

Again in the *Democratic Review* of June, 1846, page 420, we find the following excellent suggestion to the New York convention:

"Some provision should be passed securing to females the sole right to hold and transfer either by sale or devise after marriage all property, real and personal, belonging to them previous to and all property [of] which they may become possessed after marriage, either by heirship, purchase, or in any manner whatsoever."

The editor adds the following, viz., "The provision in the Texas constitution upon this point is perhaps unexceptionable."

I might quote many more prominent organs of the Democratic party to prove that it is recognized as the Democratic doctrine of the day. But I think it unnecessary, having above quoted from what is acknowledged to be the leading organ of the Democracy in the United States.

Sir, in conclusion permit me to say that I took my seat upon this floor conscious that in this body a majority should rule. I have thus far submitted to the doings of the majority without a murmur, and exceedingly regret that gentlemen who should be presumed to have more good judgment should stand upon

this floor and threaten to defeat the constitution if the majority will not yield to the minority. It is justly despisable in any member who will take that course to awe the action of the majority.—*Democrat,* Jan. 2, 1847.

Mr. Hunkins moved that the blank be filled with "$1,000."

J. Allen Barber moved to fill the same with "$5,000."

Mr. Ryan moved a call of the convention, which was seconded, and Messrs. Atwood, John M. Babcock, Hiram Brown, Burnside, Coombs, Cruson, Hackett, James H. Hall, George Hyer, Madden, Mills, Reed, Moses M. Strong, and Vineyard were reported absent.

Messrs. Cruson, Vineyard, George Hyer, Coombs, Hackett, Mills, and John M. Babcock were excused from their attendance.

The sergeant at arms was sent for the absentees.

Asa Kinne moved that all further proceedings under the call be dispensed with, which was agreed to. And a division having been called for, there were 52 in the affirmative, negative not counted.

Mr. Dennis moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

And the question having been first put on filling the blank with "$5,000," it was decided in the negative.

The question was then put on filling the blank with "$1,000," and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 68, negative 27; for the vote see Appendix I, roll call 235].

The question was then put on the passage of the said article, and was decided in the affirmative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 61, negative 34; for the vote see Appendix I, roll call 236].

So the article passed and the title thereof was agreed to.

On motion of Mr. Magone the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

The convention resolved itself into committee of the whole for the consideration of No. 17, "Article on the name and boundaries of the state," Mr. Hunkins in the chair. And after some time spent therein the committee rose and reported the same back with amendments.

And the question being on concurring in the amendments of the committee of the whole thereto, a division of the question was called for.

And the question having been put on concurring in the first amendment of the committee, which was to strike out the words "and for the purpose of obtaining admission into the Union," where they occur in the first section, it was decided in the affirmative.

The question was then put on concurring in the second amendment of the committee, which was to strike out all of the first section after the words, "August 6, 1846," and was decided in the affirmative.

The question was then put on concurring in the third amendment of the committee, which was to add to the first section the following proviso: "*Provided,* however, That the following alteration of the aforesaid boundary be and hereby is proposed to the Congress of the United States as the preference of the state of Wisconsin, and if the same shall be assented and agreed to by the Congress of the United States, then the same shall be and forever remain obligatory on the state of Wisconsin, viz., leaving the aforesaid boundary line at the aforesaid first rapids, in the river St. Louis; thence southwardly in a direct line to the mouth of Clear Water Creek, emptying into Lake Pepin, as marked upon the map by Nicholet [Nicollet]; thence to the center of Lake Pepin opposite the mouth of Clear Water Creek; thence down the middle of Lake Pepin and continuing down the center of the main channel of the Mississippi River, as prescribed in the aforesaid boundary," and was decided in the negative.

And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 40, negative 47; for the vote see Appendix I, roll call 237].

The fourth amendment of the committee, which was to insert in the second section, between the words "may" and "be," the words, "by and with the consent of Congress," was then concurred in.

The amendments having been all disposed of, Moses M. Strong moved to amend the said article by striking out the second section. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 41, negative 47; for the vote see Appendix I, roll call 238].

Mr. Jenkins moved to amend the first section by adding the following proviso, to wit: "*Provided,* however, That the admission of this state into the Union, according to the boundaries as above described, shall not in any manner affect or prejudice the right of this state to the boundaries which were fixed and established for the fifth division or state of the Northwestern Territory in and by the fifth article of compact in the ordinance of Congress for the government of the territory northwest of the river Ohio, passed July 13, 1787, and by an act to divide the Indiana Territory into two separate governments, approved the eleventh day of January, 1805, which said boundaries are as follows, to wit: On the south by an east and west line drawn through the southerly bend or extreme of Lake Michigan to the Mississippi River; on the west by the Mississippi River from the point where the said line intersects the middle of said river to its source, and thence due north to the forty-ninth parallel of latitude; on the east by a line drawn from the said southerly bend of Lake Michigan through the middle of the said lake to its northern extremity, and thence due north to the northern boundary of the United States; and on the north by the said northern boundary."

And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who

voted in the affirmative were [affirmative 37, negative 49; for the vote see Appendix I, roll call 239].

Mr. Crawford moved to amend the article by striking out all after the figures "1846" in the fourth line of the first section and insert[ing] as follows:

"Which said boundaries are as follows, to wit: 'Beginning at the northeast corner of the state of Illinois, that is to say, at a point in the center of Lake Michigan where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence running with the boundary line of the state of Michigan through Lake Michigan and Green Bay to the mouth of the Menomonee River; thence up the channel of said river to the Brule River; thence up said last mentioned river shore to Lake Brule; thence along the southern shore of Lake Brule in a direct line to the center of the channel between Middle and South Islands in the Lake of the Desert; thence in a direct line to the headwaters of the Montreal River, as marked upon the survey made by Captain Cram; thence down the main channel of Montreal River to the middle of Lake Superior; thence through the center of Lake Superior to the mouth of the St. Louis River; thence up the main channel of said river to the first rapids in the same, above the Indian village, according to Nicollet's map; thence due south to the main branch of the St. Croix; thence down the main channel of said river to the Mississippi; thence down the center of the main channel of that river to the northwest corner of the state of Illinois; thence due east with the northern boundary of the state of Illinois to the place of beginning, as established by "An Act to enable the people of Illinois Territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states," approved April 18, 1818.'

"Section 2. Be it further ordained that to prevent all disputes in reference to the jurisdiction of islands in the said Brule and Menomonee rivers, the line may be so run as to include within the jurisdiction of Michigan all the islands in the Brule and Menomonee rivers (to the extent in which said rivers are adopted as a boundary) down to and inclusive of the Quinisec Falls of the Menomonee, and from thence the line may be so run as to include within the jurisdiction of Wisconsin all the islands in the Menomonee River, from the falls aforesaid down to the junction of said river with Green Bay: *Provided,* That the adjustment of the boundary as herein fixed between this state and Michigan shall not be binding on this state unless the same shall be ratified by the state of Michigan on or before the first day of June, 1848."

Moses M. Strong moved a call of the convention, which was ordered, and Messrs. Brace, Burnside, Burt, Chamberlain, Clark, Coombs, Cruson, Dennis, Gray, Green, Hill, George Hyer, Joseph Kinney, Madden, Mills, Moore, Parsons, Phelps, Randall, Reed, Marshall M. Strong, Vineyard, and White reported absent.

Mr. Magone moved that the absentees be excused, which was agreed to.

The question then recurred on the amendment of Mr. Crawford. And having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 37, negative 55. For the vote see Appendix I, roll call 240.]

The question was then put on ordering the said article to be engrossed for its third reading and was decided in the affirmative.

Moses M. Strong moved that the vote ordering the said article to be engrossed be reconsidered, which was disagreed to.

On motion of Mr. Hunkins the convention took a recess until seven o'clock, P. M.

SEVEN O'CLOCK, P. M.

Mr. Hays, by leave, presented the accounts of Blanchard & Co. and Hall & Baxter for crape, which were referred to the committee on expenses.

The President presented the resignation of Marshall M. Strong, as a member of this convention.

Resolution No. 1, of December 2, was taken up, when Moses M. Strong moved that the same be indefinitely postponed, which was agreed to.

The convention then resolved itself into committee of the whole for the consideration of No. 34, "Schedule," Mr. Lovell in the chair. And after some time spent therein the committee rose, and pending the report of said committee Moses M. Strong moved a call of the convention which was ordered, and Messrs. Atwood, Bell, Bennett, Berry, Bevans, Bowker, Charles E. Browne, Burchard, Burnside, Burt, Cartter, Clark, Clothier, Coombs, Cruson, Dennis, Doty, Dunning, Ellis, Elmore, Goodell, Granger, Green, George B. Hall, Hays, Hazen, Hesk, George Hyer, Inman, Joseph Kinney, Madden, Meeker, O'Connor, Patch, Parsons, Sewall Smith, John Y. Smith, Soper, Topping, Vineyard, Vliet, and Wilson, reported absent.

Messrs. Madden, Cruson, [Vineyard], Vliet, George Hyer, Green, Berry, and Burnside were excused from their attendance.

Mr. Phelps moved that the convention adjourn, which was disagreed to.

Mr. Hunkins moved that the absentees be excused from their attendance, which was disagreed to.

Mr. Phelps moved that the convention adjourn, which was agreed to.

The convention adjourned.

The committee went into committee of the whole on "Schedule."

After considerable debate on the best time for submitting the constitution to the people it was left as originally reported—the first Tuesday in April.

Mr. Huebschmann then introduced an amendment that all who had the qualifications of electors at the time of the election of delegates to this convention should be allowed to vote on its adoption and for all officers under it. He reminded gentlemen that the foreign population had placed implicit faith in the declarations of the various Democratic conventions before election. He appealed to gentlemen not to disappoint them.

Mr. Upham spoke at some length in favor of the amendment. He said that our foreign population would consider it rather an aggrievance to be debarred the privilege of voting for officers under the constitution after they had been permitted to vote for delegates to frame it.

They had declared their intention to become citizens of the United States, and if he recollected aright the form of the oath they were required to take in declaring their intentions also made them forswear all allegiance to any foreign prince or potentate. He said that it would be considerable trouble for them to take the additional oath they would be required to take unless this amendment was carried; he therefore advocated the adoption of the amendment as a matter of expediency.

Mr. Elmore was not particularly in favor of allowing foreigners to vote as soon as they land on our shores; but he did not consider that the question here. He thought it a matter of right that all who voted for delegates should have the right to vote for or against the adoption of the constitution.

Mr. Beall was in favor of the amendment.

Mr. Ryan opposed the amendment in a speech of considerable length. He was a foreigner himself and professed to know something of the views of foreigners generally on the subject of the elective franchise. They did not wish to vote without taking the oath of allegiance so far as he was acquainted with their views. Gentlemen were detracting from the character of foreigners when they imputed to them a disinclination to take additional oaths. The law of the territory conferring upon them the privilege of voting for the election of delegates to frame a state constitution was a favor, not a right; and did gentlemen intend to extend this favor to a still greater length? Suffrage and allegiance should go hand in hand.

When foreigners were allowed to exercise the elective franchise without first taking the required oath of allegiance, they were placed upon a far more favorable footing than the native-born citizen. This position they did not wish to occupy. Gentlemen had said that in the declaration of intention to become citizens of the United States there was also a requirement that they should forswear all allegiance to foreign potentates and powers. This is not so; it is only a declaration of intention to forswear, etc. He thought he placed a far higher estimate upon the character of foreigners when he said that they were glad of the opportunity of showing their love for this country by taking the oath of allegiance than those did who said they looked upon it as burdensome and unnecessary.

After some further debate the amendment introduced by Mr. Huebschmann was adopted.

The committee then rose and the convention adjourned.—*Express*, Dec. 15, 1846.

Tuesday, December 8, 1846

Prayer by the Rev. Mr. McHugh.

The reading of the journal of yesterday was dispensed with.

Mr. Lovell, from the committee of the whole, reported progress on No. 34, "Schedule," and asked leave to sit again. Leave was granted.

Mr. Hunkins, from the committee on engrossment, reported No. 17, "Ordinance in relation to the boundaries of Wisconsin," as correctly engrossed.

The resolution introduced by Mr. Harkin on the fifth instant, relative to naturalization, was taken up, when Mr. Dennis moved that the same be laid upon the table, which was agreed to.

The resolution introduced by Mr. Ellis on the seventh instant, relative to paying M. J. Bovee his expenses in contesting the seat of Mr. Burchard, was taken up and adopted.

The resolution introduced on yesterday by Mr. Manahan, relative to corporations, was taken up, read the first and second times, and referred to the committee of the whole.

Mr. Reed moved that leave of absence be granted to Mr. Tweedy. Mr. Lovell moved to amend the motion by adding "after today." And pending the question thereon, on motion of Mr. Lovell, the said motion was laid on the table.

No. 17, "Ordinance relative to the boundaries of Wisconsin," was read the third time, when A. Hyatt Smith moved that the same be referred to a select committee, with instructions to strike out the second section. And the rules having been first suspended for the consideration of said motion, Mr. Doty moved to amend the motion to strike out the instructions, which was disagreed to.

The question then recurred on the motion of A. Hyatt Smith. And having been put, it was decided in the affirmative.

The President announced the appointment of the following committee under said resolution, to wit: Messrs. A. Hyatt Smith, Doty, Hunkins, Coxe, and James.

The convention then resolved itself into committee of the whole for the consideration of No. 34, "Schedule," Mr. Lovell in the chair. And after some time spent therein the committee rose and by their chairman reported the same back with amendments.

And the question being on concurring in the amendments of the committee of the whole, a division of the question was called for.

And the question having been put on concurring in the first, second, third, and fourth amendments of the committee, [they] were [severally] concurred in.

And the question being on concurring in the fifth amendment of the committee, which was to amend the tenth section by inserting the following after the word "convention" in the third line, to wit: "And

all persons having such qualifications at the time last aforesaid shall be entitled to vote for or against the adoption of this constitution, and for all officers to be elected under it''; and to strike [by striking] out in the third line the word ''same'' and insert[ing] ''constitution,'' Mr. Turner moved to amend the amendment by inserting after the word ''persons'' the word ''foreigners'' [and to add as follows, to wit: ''Foreigners] so being qualified to vote for the adoption of this constitution shall forever thereafter be qualified to vote for all officers elective under or contemplated by this constitution, by first taking and subscribing an oath to support the Constitution of the United States,'' which was disagreed to.

And the question having been put on concurring in the fifth amendment of the committee, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 62, negative 31; for the vote see Appendix I, roll call 241].

On motion of Mr. Baker the convention adjourned to two o'clock P. M.

The question being on concurring in the amendments reported [from committee of the whole], they were all agreed to without debate until the one offered yesterday by Dr. Huebschmann, not requiring an oath of allegiance from those foreigners who were electors of delegates to this convention, came up.

Considerable debate occurred on that amendment.

Mr. Tweedy had no feeling in reference to the question before the house. It might not become him, as a Whig, to go out of his way to touch so delicate a subject, under the especial care of the peculiar friends of the foreigner. He had not meddled with the question when the article on suffrage was under debate, and would not have had a word to say now, had not remarks personal and perhaps offensive to himself been made while he was out of his seat engaged in the court below. Gentlemen had treated him as too important a personage in calling for his voice and vote on the question as the voice and vote of the Whigs. He did not assume to speak the views of the Whigs here or elsewhere on this question. He but spoke his own sentiments, which he gave without reserve, without any desire to influence any man's vote, and wished every man, Whig or Democrat, to act on his own judgment.

His position had been defined in the speech of the gentleman from Racine (Mr. Ryan) of which he had at the time testified his approbation. That speech had carried conviction to his mind. He held with him that suffrage and allegiance went together. That principle was adopted in the suffrage article, which, as he thought, placed the foreigner and native American on exactly the same footing. He approved and voted for that article and supposed the principle to be then settled. He believed that article had in that respect given satisfaction to the great number of both parties in his county. He had indeed understood from his colleague (Mr. Huebschmann) and the petitions before the house that his foreign friends were dissatisfied; but he was inclined to believe that this dissatisfaction arose in a great degree from the promises and pledges made to them by politicians which had not been fulfilled. He had not solicited votes for himself or others by any promise or pledge which he ought not to perform, and he disdained now to court friends for himself or his party by abandoning the principle which had been sustained by himself and the convention. Were there no principle in the way, he would not object to the amendment, for he had no fears but that his foreign constituents, equally without as with the oath required, will become bona fide citizens of the state and faithful to the country and the constitution. He was at a loss to comprehend the objections and scruples against taking the oath, of which we have heard so much. He esteemed the requisition of the oath rather a privilege than an odious distinction. He wished that the same oath were required of himself and of every citizen of the state, for just the same oath was required of him before he cast his first vote in his native state, and is now required of every citizen of that state.

Mr. Drake considered the ground so well taken and so eloquently maintained by the gentleman from Racine (Mr. Ryan) a few days since to be the true American ground. He had for half his life had more to do with foreigners than with native citizens, and he thought that he was as much inclined to act for their interests as any other man. He should oppose the amendment.—*Express,* Dec. 15, 1846.

TWO O'CLOCK, P. M.

Article No. 34 was taken up. And the question having been put on concurring in the sixth amendment of the committee of the whole, it was decided in the affirmative.

The question was then put on concurring in the seventh amendment, which was to strike out the words "president of this convention," wherever they occur in the article, except in the eighth section, and insert the words "governor of the territory," and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 48, negative 43; for the vote see Appendix I, roll call 242].

The question was then put on concurring in the eighth amendment of the committee, which was to strike out the words "second Monday of October," in the twelfth section, and insert the words "the second Monday of June," and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 60, negative 29; for the vote see Appendix I, roll call 243].

The ninth amendment of the committee of the whole was then concurred in.

The question being on concurring in the tenth amendment of the committee of the whole, [which] was to insert as section 14: "Section 14. All persons to be eligible to any office in this state shall have the qualifications of electors as specified in article No. 1, on suffrage and the elective franchise," Mr. Hicks moved to amend the amendment by striking out all after the word "electors." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 17, negative 68; for the vote see Appendix I, roll call 244].

The tenth amendment of the committee was then concurred in.

The eleventh amendment of the committee, which was to insert in the fourteenth section, after the word "judge," the words "notary public," was then concurred in.

The amendments of the committee having all been disposed of, Moses M. Strong moved to amend section 11 by striking out all after the words "counties of," and insert the following words, viz:

"Brown, Manitowoc, Calumet, Winnebago, Fond du Lac, Sheboygan, Marquette, Dodge, Washington, Jefferson, Waukesha, Milwaukee, Racine, Walworth, and Rock shall constitute the first Congressional district, and elect one member; and the counties of Columbia, Portage, Dane, Sauk, Green, Iowa, Grant, Crawford, Chippewa, La Pointe, Richland, and St. Croix shall constitute the second Congressional district, and shall elect one member," which was disagreed to.

Mr. Ryan moved to amend by striking out the eleventh section. And pending the question thereon, Moses M. Strong moved to amend by striking out all after the words "counties of," where they first occur, and insert as follows:

"Brown, Manitowoc, Calumet, Winnebago, Fond du Lac, Sheboygan, Washington, Milwaukee, Waukesha, Racine, and Walworth shall constitute the first Congressional district, and elect one member; and the counties of Marquette, Columbia, Portage, Sauk, Dodge, Jefferson, Dane, Rock, Green, Iowa, Grant, Richland, Crawford, Chippewa, St. Croix, and La Pointe shall constitute the second Congressional district, and shall elect one member."

Mr. Ryan moved to amend the amendment by striking out "Winnebago," where it occurs, and insert it after the word "Grant." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 7, negative 86; for the vote see Appendix I, roll call 245].

The question recurred on the amendment of Moses M. Strong. And having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 43, negative 51; for the vote see Appendix I, roll call 246].

Moses M. Strong moved to amend the article by striking out all after the words "counties of," where they first occur in the eleventh section, and insert, "Brown, Manitowoc, Calumet, Fond du Lac, Sheboygan, Washington, Milwaukee, Waukesha, Racine, and Walworth shall constitute the first Congressional district, and elect one member; and the counties of Marquette, Winnebago, Columbia, Portage, Sauk, Dodge, Jefferson, Dane, Rock, Green, Iowa, Grant, Richland, Crawford, Chippewa, St. Croix, and La Pointe shall constitute the second Congressional district, and shall elect one member." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 45, negative 48; for the vote see Appendix I, roll call 247].

Mr. Hicks moved to amend by striking out the words "Dane, Jefferson, and Sauk," and insert[ing] "Racine," and strike [striking] out the word "Racine," and insert[ing] "Dane, Jefferson, and Sauk," which was disagreed to.

The question then recurred, on the amendment of Mr. Ryan, to strike out the eleventh section. And having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 42, negative 53; for the vote see Appendix I, roll call 248].

Mr. Ryan moved that the vote rejecting the second amendment of Moses M. Strong be reconsidered, when Mr. Drake moved a call of the convention, which was ordered, and Messrs. Bennett, Bevans, Brace, Burt, Coombs, Cruson, Green, Hicks, Hunkins, Noggle, Parks, Parsons, Vineyard, and Wilson reported absent.

The sergeant at arms was sent for the absentees.

On motion of Mr. Elmore the absentees were excused from their attendance.

The question was then put on the motion of Mr. Ryan and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 45, negative 54; for the vote see Appendix I, roll call 249].

Mr. Bevans moved that the article be referred to a select committee of nine, with instructions to report a substitute for section 11, by dividing the state into Congressional districts by a north and south line And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 57, negative 33; for the vote see Appendix I, roll call 250].

Mr. Vineyard moved that the vote on the passage of No. 1, resolution on negro suffrage, be reconsidered, and also moved that the consideration of said motion be postponed until tomorrow. And pending the question thereon, on motion of Mr. Phelps, the convention adjourned.

WEDNESDAY, DECEMBER 9, 1846

Prayer by the Rev. Mr. Miner.

The reading of the journal of yesterday was dispensed with.

The President announced the appointment of the following committee, to whom was referred No. 31, "Schedule," to wit: Messrs. Bevans, [Jenkins], Baker, Bennett, Turner, Randall, Wilson, Pierce, and Goodell.

A. Hyatt Smith, from the select committee to whom was referred No. 17, "Article relative to the boundary of the state," reported the same back with an amendment.

Mr. Burt from the select committee to whom that subject had been referred reported No. 37, "Article relative to clerical service."

"The committee, to whom was referred the resolution of November the twenty-seventh instructing them to inquire into the expediency of reporting a provision prohibiting the legislature from appropriating public money to the payment of any clerical service whatever, beg leave to report the following article, preamble, resolution, and accompanying documents, viz:

"WHEREAS, the committee are apprised of the difficulties which lay in our way, the alarm we were about to create, the feelings we should probably disturb, the interest we should most certainly assail, and the passions we might possibly excite, though advised of the force we should have to encounter and the prejudices we should have to combat, though admonished of the hazard we were about to run, the animadversion we should incur, and the defeat which probably awaited us, yet all this threatened array of multiform opposition served but as further evidence or confirmation strong, of a legislative and a clerical influence, and operated as additional incentives to a firm stand on the ground we had taken, and an unyielding effort to maintain the civil, religious, and mental liberties of our constituents and the whole people.

"Therefore, be it resolved that the committee be instructed to report the following article and accompanying documents:

"The legislature shall have no power to appropriate money to the payment of any clerical officer or service whatever.

"The committee most respectfully would ask leave to present some of the reasons by which they have been governed in the discharge of the duty assigned them, viz:

"First. In the organization of a compact of civil and political government it becomes necessary to surrender a portion of our natural rights for securing to all greater and more important objects, such as the protection of property, life, liberty of person, conscience, the just, equitable, and impartial administration of laws."

Which was read the first and second times. And the question being on referring the same to the committee of the whole and ordering the same to be printed, a division of the question was called for.

A. Hyatt Smith moved that the further consideration of the said resolution be postponed until Monday next. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 46, negative 33; for the vote see Appendix I, roll call 251].

Wm. R. Smith, from the committee to whom the resolution relative to the Treasurer had been referred, made the following report:

"The committee, to whom was referred the resolution in relation to the amount and distribution of the canal funds appropriated for the payment of the expenses of the convention, report:

"That, having had interviews with the Treasurer of the territory, and not considering it as expedient at this late period of the session of the convention to examine his books and report a detailed statement of items of payments made by him out of the canal funds to various persons and for various purposes, your committee requested of the Treasurer to make out a general statement of total amounts by him received and paid out of said funds.

"By the accompanying documents received from the Treasurer of the territory, the following result appears as his receipts and payments:

1846, June.	Paid by David Merrill, Receiver of the Milwaukee and Rock River Canal funds	$12,211.10
" Oct.	Paid by David Merrill, Receiver, etc	11,236.15
	Total receipts by the ter. Treasurer	$23,447.25
1846,	Paid by ter. Treasurer to members for mileage and per diem pay	$8,656.60
	" officers per diem pay	450.00
	" chaplains per resolution	100.00
	" on account of appropriations	1,753.99
	Total	$10,960.59

"The territorial Treasurer also reports by the accompanying letter that there are no more funds in his hands for the purpose of paying the expenses of the convention.

"Your committee observe that the territorial Treasurer states his receipts in October last to have been $11,236.15

"And his payments of convention expenses to have been 10,960.59

"Leaving a balance due to convention expenses of.... $275.56

"Your committee also observe that the sum of $12,211.10, which was received by the territorial Treasurer in June last together with the above stated balance of $275.56, must have been paid out by the Treasurer to discharge some territorial indebtedness other than the expenses

of the convention, the items of which payments your committee, as above stated, have not obtained.

Respectfully submitted,
WM. R. SMITH, Chairman."

TREASURER'S OFFICE,
MADISON, Dec. 7, 1846.

HON. WM. R. SMITH, CHAIRMAN:

In reply to your inquiries of the fifth instant, I have the honor to state that I have paid the expenses of the convention to the amount of $10,960.59, and that there are no more funds in my hands for that purpose.

Very respectfully,
Your ob't serv't.
J. LARKIN JR., Territorial Treasurer.

TREASURER'S OFFICE,
MADISON, Dec. 7, 1846

HON. WM. R. SMITH, CHAIRMAN:

I have the honor further to report, in reply to your inquiries, that the amount of my disbursements to the convention are as follows:

To members for mileage and per diem pay	$8,656.60
" officers for per diem pay	450.00
" chaplains per resolution	100.00
On account of appropriations	1,753.99
Total	$10,960.59

The whole amount that has been paid into my hands from the sale of Canal Lands amounts in all to $23,447.25.

Very Respectfully,
Your Ob't Serv't,
J. LARKIN JR., Treasurer.

I further report that I received in the month of June, 1846 from David Merrill, the receiver of the Milwaukee and Rock River Canal funds, $12,211.10
Likewise in October last 11,236.15

$23,447.25

All of which is respectfully submitted.

J. LARKIN JR., Treasurer.

Mr. Baker asked that leave of absence be granted to Mr. Berry. Leave was granted. Mr. Parkinson asked that leave of absence be granted to Messrs. White and Burnside. Leave was granted. J. Allen Barber asked that leave of absence be granted to Mr. Gray. Leave was granted.

Mr. Burchard introduced the following resolution, to wit: "*Resolved*, That the use of this hall be granted to the Rev. Mr. Codding,

on Saturday evening, the twelfth instant, for the purpose of delivering an antislavery lecture."

And the rules having been first suspended for the consideration of said resolution, and the question having been put on the adoption of the said resolution, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 60, negative 31; for the vote see Appendix I, roll call 252].

Mr. Hays moved that the vote on the adoption of the said resolution be reconsidered, which was disagreed to. And a division having been called for, there were 32 in the affirmative and 44 in the negative.

The report of the select committee to whom had been referred article No. 17 was then taken up. And the question having been put on concurring in the amendment of the committee, which was to strike out the second section [it was decided in the affirmative].

Mr. Holcombe moved to amend the article by adding to the first section the following proviso: "*Provided,* however, That the following alteration of the aforesaid boundary be and hereby is proposed to the Congress of the United States as the preference of the state of Wisconsin, and, if the same shall be assented and agreed to by the Congress of the United States, then the same shall be and forever remain obligatory on the state of Wisconsin, viz., Leaving the aforesaid boundary line at the aforesaid first rapids in the river St. Louis; thence in a direct line southwardly to a point —— miles east of the most easterly point in Lake St. Croix; thence due south to the main channel of the Mississippi River or Lake Pepin; thence down the said main channel of Lake Pepin and the Mississippi River, as prescribed in the aforesaid boundary."

Mr. Ryan moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

The question was then put on the amendment of Mr. Holcombe and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 49, negative 38; for the vote see Appendix I, roll call 253].

The said article was then ordered to be engrossed for its third reading.

No. 33, "Article relative to dueling," was taken up, when Mr. Giddings moved that the committee of the whole be discharged from the further consideration of said article, which was agreed to.

Mr. Baker moved to amend the said article by striking out the words "aider or abetter," and insert[ing] "any second to either party," which was disagreed to. And a division having been called for, there were 26 in the affirmative and 30 in the negative.

Mr. Granger moved to amend the same by striking out the sixth section and inserting: "Section 1. Any citizen of this state who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory, shall forever be disqualified from holding any office under the constitution and laws of this state, and may be punished

in such other manner as shall be prescribed by law,'' which was agreed to.

The said article was then ordered to be engrossed for its third reading.

No. 36, ''Article relative to disqualification for office,'' was taken up, when Mr. Ryan moved that the committee of the whole be discharged from the consideration thereof, which was agreed to.

Mr. Dennis moved to amend the said article by striking out the second and third sections.

A division of the question having been called for, the question was put on striking out the first section and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 16, negative 64; for the vote see Appendix I, roll call 254].

The article introduced by resolution by Mr. Ryan, relative to the disqualification of officers, was taken up.

Mr. Dennis moved to strike out the second and third sections.

Mr. Ryan said he would see who wanted offices for the benefit of the people or for the benefit of office holders. He spoke at some length, showing the justice and propriety of the provisions of the second and third sections.

Mr. Judd rose to show that the provisions here were already provided for in other sections. They were useless and unnecessary provisions.

After some further discussion, the question was taken on the motion to strike out the second section as follows: [roll call 254].—*Democrat,* Dec. 12, 1846.

The question was then put on striking out the third section and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 20, negative 61; for the vote see Appendix I, roll call 255].

Mr. Magone moved to amend the article by inserting after the words ''lieutenant governor'' the words ''secretary of state, treasurer, attorney general,'' which was agreed to.

Mr. Baker moved to amend the said article by inserting after the words ''to this state'' the words ''or any town or county therein,'' which was agreed to.

The said article was then ordered to be engrossed for its third reading.

Mr. Bevans, from the majority of the select committee of nine, to whom No. 31, ''Schedule,'' had been referred, reported the same back with an amendment.

Mr. Dennis moved that the consideration of said report be postponed until tomorrow, which was disagreed to.

Mr. Magone moved a call of the convention, which was ordered, and Messrs. Hill, Lovell, O'Connor, Phelps, George B. Smith, and John Y. Smith, reported absent.

The sergeant at arms was sent for the absentees.

Moses M. Strong moved that the convention adjourn until four o'clock P. M., which was disagreed to.

Moses M. Strong moved that the absentees be excused from their attendance, which was agreed to.

Mr. Noggle moved to postpone the further consideration of the said report until tomorrow, which was disagreed to.

The question being on concurring in the amendment of the committee, Mr. Turner moved to amend the same by striking out the word "Jefferson" from the second district, and insert[ing] it in the first district, which was disagreed to.

Mr. Bevans, from the select committee appointed this morning, on leave, made a report for eight of the committee, which report made the counties of Brown, Manitowoc, Calumet, Winnebago, Fond du Lac, Sheboygan, Washington, Milwaukee, Waukesha, Racine, and Walworth the first Congressional district; and the counties of Marquette, Columbia, Portage, Sauk, Dodge, Jefferson, Dane, Rock, Green, Iowa, Grant, Richland, Crawford, Chippewa, St. Croix, and La Pointe the second district.

Mr. Turner, from the same committee, objected, and presented the following:

As a member of the select committee to whom was referred the article on a schedule, with instructions so to amend the eleventh section as to divide the state into two Congressional districts by a north and south line, in behalf of myself and my colleagues unanimously beg leave to protest against being placed in the western Congressional district according to the majority report of said committee.

First. On the ground that it is placing Jefferson and Dodge in connection with a very large majority entirely dissimilar to us in feelings, habits, and pursuits. Second. On the ground that, politically, being dissimilar to the western portion of the territory in feelings, pursuits, and local interests, we should be nothing more nor less than a mere cypher. Third. On the ground that the inhabitants of Jefferson are in pursuit an agricultural community; our market is east, our business is east, our interests are east, and our associations are east.

PETER H. TURNER.

—*Democrat*, Dec. 12, 1846.

Mr. Beall moved to amend by striking out "Winnebago" from the first district and insert[ing] it in the second district, which was agreed

to. And a division having been called for, there were 49 in the affirmative and 27 in the negative.

George Hyer moved to amend by striking out the word "Jefferson," which was disagreed to.

The question was then put on concurring in the amendment of the committee and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 61, negative 38; for the vote see Appendix I, roll call 256].

Mr. Baker moved to amend the said article by striking out the word "commissioners" in section 5, and insert[ing] in lieu thereof the words "all officers," which was agreed to.

J. Allen Barber moved to amend the article by striking out of the first line of section 8 the words "its adjournment" and insert[ing] in lieu thereof the words "the adoption of this constitution by a vote of a majority of the electors of this territory voting upon that subject." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 16, negative 80; for the vote see Appendix I, roll call 257].

Hiram Barber moved to amend the same by adding a new section as follows, to wit: "Section —. The governor, lieutenant governor, and other state officers first elected under this constitution shall enter upon the duties of their respective offices on the first Monday of November next, and shall continue in office for two years from the first day of January following; and the judges elected under this constitution shall enter upon the duties of their office on the first day of January after such election, and their term of office shall be for five years after said first day of January; and the governor and other territorial officers whose places are supplied by the election under this constitution shall continue in office until their successors are qualified and enter upon the duties of their office as before stated," which was agreed to.

The said article was then ordered to be engrossed for its third reading.

Mr. Hunkins, from the committee on engrossment, reported Articles Nos. 17 and 33 as correctly engrossed.

Mr. Dennis moved that the rule requiring the ayes and noes to be called upon the passage of articles be suspended for the passage of the said articles, which was agreed to.

No. 33, "Article relative to dueling," was read the third time, passed, and the title thereof agreed to.

No. 17, "Article relative to the boundary of Wisconsin," was read the third time, when Mr. Burchard moved that the blank therein be filled with "15 miles," which was agreed to.

The said article was then passed, and the title thereof was agreed to.

On motion of Wm. R. Smith the convention adjourned until tomorrow morning.

THURSDAY, DECEMBER 10, 1846

Prayer by the Rev. Mr. McHugh.

The reading of the journal of yesterday was dispensed with.

Mr. Bennett introduced the following resolution, to wit: "*Resolved,* That the president of the convention be authorized to draw an order on the treasurer of the territory, allowing to J. G. Knapp, librarian, for extra services in keeping the library open for the use of the members of this convention, $1.50 per day, and for pay for assistant."

Mr. Bennett moved that the rules be suspended for the consideration of the same, which was disagreed to.

Mr. Bell introduced the following resolution, to wit: "*Resolved,* That the committee on revision be instructed to amend the article on banks and banking by striking out the sixth section; and to amend the article on the rights of married women and exemptions from forced sale by striking out the first section and inserting the following in lieu thereof: 'The legislature shall, at its first session after the adoption of this constitution, pass suitable laws for securing to the wife and her children the enjoyment of her separate property owned by her before marriage, or which she shall afterwards acquire by devise, descent, grant, or gift, otherwise than from her husband, and to provide for the registry of her separate property'; and so to amend the second section of said article, as to provide that the value of real estate to be exempted shall be limited in all cases to one thousand dollars."

Mr. Burchard moved that the rules be suspended for the consideration of the same, when Asa Kinne moved a call of the convention, which was ordered, and Messrs. Beall, Brace, Burt, Clark, Cooper, Coombs, Doty, Dunning, Edgerton, Fitzgerald, Fuller, Gilmore, Goodrich, Graham, Granger, George B. Hall, Hammond, Hays, Hazen, Hunkins, James, Lovell, Meeker, Mills, O'Connor, Parkinson, Phelps, Pierce, Prentiss, George B. Smith, John Y. Smith, and Vineyard reported absent.

Messrs. O'Connor, Coombs, Vineyard, and John Y. Smith were excused from their attendance.

The sergeant at arms was sent for the absentees, and pending his report Mr. Hunkins, from the committee on engrossment, by leave, reported Articles Nos. 34 and 36 as correctly engrossed.

Mr. Dennis moved that the absentees be excused. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 37, negative 55; for the vote see Appendix I, roll call 258].

The sergeant at arms reported all the absentees in attendance.

The question was then put on suspending the rules for the consideration of the resolution introduced by Mr. Bell and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 66, negative 32; for the vote see Appendix I, roll call 259].

The question then recurred on the resolution introduced by Mr. Bell, when a division of the question was called for. And the question being on adopting that portion of the resolution relative to instructing the committee on revision to strike out the sixth section of the article on banks and banking, when [*sic*] Mr. Gibson moved to amend the same by striking out "the sixth section," and insert[ing] "all after the first section, in the bank article" And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 15, negative 80; for the vote see Appendix I, roll call 260].

On motion, Mr. Parkinson was excused from voting.

The question was then put on the first portion of the said resolution of instructions and was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 44, negative 55; for the vote see Appendix I, roll call 261].

The question was then put on adopting the second portion of the instructions to the said committee and was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 52, negative 47; for the vote see Appendix I, roll call 262].

The question then recurred on the third division of the said resolution, when Mr. Burchard moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

And the question having been put on the third division of the said resolution, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 70, negative 29; for the vote see Appendix I, roll call 263].

The rules were suspended for the consideration of Mr. Bell's resolution.

Mr. Ryan moved to amend the resolution by striking out the instruction to amend the bank article. He considered the stringing together three such unlike provisions to be what is sometimes called logrolling. He wished a distinct vote taken on the bank question.

Mr. Bowker then spoke against the bank article in general and against the sixth section in particular.

Mr. Burchard wished to define his position. It would be recollected by all, he said, that from first to last he had raised

his voice against the bank article. He was opposed to it in every particular. He was today what he was at the beginning, a regular bank man. He believed that banks were necessary, and that charters might be granted in such a way as to be perfectly safe. But he had long since given up all hope of having an article of that kind passed here. And although he was opposed to the bank article from beginning to end, yet, said he, if there is one redeeming trait in it, 'tis the sixth section. He thought that with the sixth section stricken out the article would be utterly inconsistent with itself. If we are not to have banks of our own, for God's sake, said he, do shut out the miserable trash of foreign banks.

N. F. Hyer was one who had voted for the sixth section. He believed it right; but he understood that the opposers of that section would oppose the constitution if that was left in. He should vote for striking out.

Mr. Noggle had voted for the bank article as it is. He considered it expressing his sentiments as an individual, but he was satisfied that the sixth section would bring more enemies to the constitution than it could bear.

A. H. Smith was in favor of the sixth section; and he could pledge himself and constituents to support the constitution if it was left as it was, but if it was stricken out he could make no pledge.

Mr. Mills thought differently of the feelings of the people of Rock County. He had been there since the passage of the bank article, and had not seen one man who said he would support it.

Mr. Ryan then supported the bank article; spoke of the length of time since the passage of the article, and that no petitions on this subject had come up to us; scouted the idea that the sixth section was unpopular; pronounced it a humbug that the people would go against the constitution if the sixth section was retained; and said that he should not "crawfish."

Mr. Hunkins thought the reason very plain why petitions had not come up to us. Since the passage of the bank article, said he, nearly two-thirds of this convention have been home to their constituents and have there obtained their views.

Mr. Judd pronounced the bringing these three subjects together an unholy alliance, which he could not support.

Mr. Wakeley thought his constituents wished the sixth section stricken out, and he had concluded to vote for striking it out independently of any other provision.

H. Barber should vote for striking out the sixth section in accordance with the wishes of his constituents, although against his own judgment and against what he conceived to be Democratic principles.

Mr. Parks said that a majority of this convention have incorporated an article into this constitution which is obnoxious to the people; the voice of that people has come up here and these gentlemen are scared, and would now cut off the tail of the obnoxious article without touching the article itself. He would have gentlemen, like men, back out of the whole article. If the article is to be retained, he was in favor of the sixth section; it would be inconsistent with itself without it.

Mr. Gibson was satisfied that the sixth section was unsatisfactory to the people, and not only the sixth section, but the whole bank article. "It is amusing," said he, "for one not interested to see the Democrats here, having passed an article to carry out the Democratic professions of ultra hostility to paper money, now trying to satisfy an indignant people by striking out a part by 'crawfishing' a little. They must 'crawfish' the whole," said he, "or the people will not support it at all." He therefore offered an amendment to the resolution introduced by Mr. Bell, to wit: That the committee on revision be instructed to strike out the whole of the bank article except the first section.

Mr. Parsons should vote for the sixth section. He believed his constituents wanted it.—*Express,* Dec. 15, 1846.

Mr. Ryan called for a division of the question.

He said that this hitching propositions together was what was called "logrolling." It was but fair and honest that they should be voted upon separately.

Mr. Bowker spoke as follows:

Mr. President: I have not troubled this convention thus far with any speeches, although I have sometimes wished that I had the eloquence of a Demosthenes to meet some of the orators of 1846 on this floor, but I feel constrained at this time to make a few remarks in reply to the gentleman from Racine (Mr. Ryan) who has just taken his seat, upon the subject under consideration. Having patiently listened to the various arguments adduced on the subject of banks and banking and the numerous long speeches for buncombe which it has called forth I am more and more convinced of the impropriety of prohibiting by constitutional provision the circulation of foreign bank bills. We have adopted as legitimate a bank article which is the pet child of certain gentlemen of this convention, and however they may christen it, Old Hunker, Barnburner, Crawfish, Tadpole, Hard, or Soft, I am apprehensive the people will regard it as ill-favored and illegitimate, and will never adopt it as their own. I propose, sir, that we hand over this precious nursling to the care of those who have nursed it so carefully, that its cries may not startle us at our firesides when we return to our constituents. A resolution has been offered in this convention to prohibit any member holding office for the next two years. Sir, adopt this bank article as it now stands and send it forth to the people and we shall need no such restriction of disfranchisement; our political doom will be sealed, and for more than two years, I am apprehensive—with some it will be sealed forever. The notes of alarm on this subject already begin to reach us from our constituents, and instead of the sweet notes of approval which some fancied they would hear the murmurs of disapprobation against the sixth section in particular begin to sound in our ears like the mutterings of distant thunder, and it may be well for us to take heed to its warning. Sir, I do not feel that I should be doing justice to myself or my constituents without raising my voice and protesting against the adoption of this sixth section. I am opposed and have been from the beginning to any prohibition in the constitution of the circulation of foreign bills. I am not afraid to meet this question and define my position, and I must say I consider this a matter too much of experiment to be adopted

in our constitution—it should be left to the legislature. The constitution should not be lumbered up with legislative enactments, especially of doubtful, if not dangerous expediency—dangerous to the fate of the constitution and the best interests of the people. We have not been instructed on this subject and if the people hereafter wish to adopt such a provision let them instruct their representatives in the legislature, when, if passed, and it should prove injurious, it can be repealed. Has not a law similar in principle been tried in the state of New York? And what was the result? It was violated with impunity and was repealed. Are gentlemen prepared to insert in the constitution a clause which will not only become a dead letter, but will be trampled upon with impunity and will thus bring the whole constitution into contempt? I ask how can men living near the borders of our state carry on business with those residing in an adjoining state, whose circulating medium is paper money, if this section is adopted? If it could be carried into effect it appears to me it would subject them to almost insurmountable difficulties. As well, sir, might you attempt to cut off all trade and commerce with other states and like the Chinese erect an unsurmountable wall of separation between us and them as to exclude their currency; it would put an effectual embargo on all our traffic with other states, and we might as well prohibit it at once and make it a penal offense as to prohibit the circulation with us of bank paper, whilst it is current with them; one measure would be just as wise, just as righteous, just as practicable as the other. Our constituents did not send us here to interfere with their private business or rights—to say what they should and what they should not receive in payment for their produce and merchandise. This is an assumption of power on our part which they will never sanction. I am as much opposed to banks as any individual in this convention, but I am firmly persuaded that the people of Wisconsin are not yet prepared to drive all paper money from our borders and resort to a purely metallic currency, and so believing I trust that this sixth section will be stricken from the bank article.

Sir, we are forming a constitution to fix the destinies of an enlightened people; we are about to subscribe our names to a constitution, which, if adopted, will bring weal or woe to thousands of our fellow citizens; and I sincerely hope that the result of our labors will be such as to be crowned with success, and gladden the hearts of those whose dearest interests are committed to our charge.

Mr. Harkin rose and said—

Mr. President: I rise to reply to the gentleman from Walworth. He says there is a noise as loud as thunder against this sixth section. I affirm that this thunder is but a sound, an echo, a deceiving shadow, and reminds me of the wolf story of my friend from Rock (Mr. Pierce). He was alarmed one night by the most terrific howling, which, he believed from the noise, must proceed from at least a hundred wolves, but on repairing to the spot from whence it came he found but one poor little starved wolf that made all the noise. Thus with the bank men; they howl so loud and constantly as to carry the impression that the whole country is helping them make the noise. Mr. President, one fact is worth a thousand assertions. Now, sir, I defy the gentleman to name one farmer in Walworth County who would prefer bank bills to gold and silver. No, sir, the gentleman is silent; therefore all his assertions fall to the ground. But, sir, you heard the resolutions presented by my colleague, Mr. Parsons, against bank rags and bank swindling —those resolutions were passed by the independent farmers of Racine County whom I have the honor to represent. Therefore, in justice to myself, and in compliance with their wishes I will vote against striking out the sixth section of this article.

Mr. Burchard wished to define his position. He had opposed the bank article from beginning to end. There was not a redeeming quality in it. He was a bank man, and believed them as necessary to our business prosperity as any other instrument. This article was one complete system against all banks. The other system was what he wanted. If we were to have bank paper he preferred that it should be so arranged that we should have the control of the banks—to have them in our midst, where we could know their condition and their solvency.

But if there was one redeeming quality in the system presented in this article it was the sixth section, for it carried out consistently the spirit and intent of the rest of the article.

Mr. Beall was going to crawfish. He had voted for the sixth section. His constituents were antibank men. He had been elected as an antibank man. He thought with the gentleman from Waukesha (Mr. Burchard) that any man who would vote for the first part of the article and not for the sixth section was a political hypocrite. But since the passage of the article the opinions of his constituents had reached him, and in deference to their opinions he should vote to strike it out.

N. F. Hyer had voted for the sixth section, and he believed it was right; but he should now vote to strike it out for several reasons. He believed the strongest supporters of the sixth section were determined to go against the constitution.

Mr. Noggle hoped to see the time when the principles of the sixth section could be carried out. But for the dangers he apprehended it would bring to the adoption of the constitution he should vote to strike it out.

A. H. Smith said that by striking out the sixth section you made ten enemies to the constitution where you made one friend. We had only heard the opinions of the roving politicians, barroom conventions, and stagecoach and courthouse canvassers of this question, but its friends were among the farming community.

Mr. Mills disagreed with the sentiments of his colleague. He had been home and taken some pains to ascertain the opinions of his immediate constituents, who were farmers, and he had not found the first man who supported the sixth section.

Mr. Hunkins thought it was rather strange that the gentleman from Rock (A. H. Smith) was so familiar with the opinions of the farmers. He supposed that the gentleman's business (without any imputation upon his profession) placed him with the class upon whom he had made his taunts.

Mr. Parsons spoke as follows:

Mr. President: I voted for the bank article on its final passage, sixth section and all. I voted for it from principle, and as my better judgment dictated. I believe it, sir, to be the

settled policy of the Democratic party of this state as well as of the United States to oppose every attempt to establish a bank or revive or resuscitate any such defunct institution. Being opposed to banks, as I am, in our future state, I must protest, by my vote and my voice, against striking out the sixth section of the bank article. Strike out that section and the people will be cursed with a currency in the shape of small bills, which must inevitably, as they do now, take the place of the precious metals. Mr. President, if we shut down the gate against the establishment of banks in this state, we must also shut down the gate against the circulation of small bills of other states. There is nothing equal to hard cash to fill up the small channels of trade. My constituents, sir, are of the true Democratic stamp. They are intelligent and respectable, and most of them the producing class—the bone and muscle of the country. They have sent up their opinions relative to the bank article to me and to this convention; they want and I want the principles involved in the sixth section of that article carried out. With these views, I cannot vote to strike out the sixth section.

The question was further discussed by Messrs. W. R. Smith, Ryan, Burt, Magone, Judd, Lovell, Wakeley, H. Barber, Parks, Gibson, Randall, and Drake.—*Democrat,* Dec. 12, 1846.

Mr. Clark introduced the following resolution, which was read, to wit: "*Resolved,* That the committee on revision be instructed so to amend the article on the constitution and organization of the legislature as to attach the county of Richland which is now attached to the county of Sauk as a representative district, and attach the same to the county of Crawford."

And the rules having been suspended for the consideration of the said resolution, Mr. Magone moved that the convention take a recess until three o'clock, P. M., which was agreed to.

THREE O'CLOCK, P. M.

The question was then put on the adoption of the resolution introduced by Mr. Clark and was decided in the affirmative.

No. 36, "Article relative to disqualification," was read the third time, when Mr. Dennis moved that the rules be suspended to recommit the same to a select committee, which was disagreed to.

The question then recurred on the passage of the said article. And having been put, it was decided in the affirmative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 44, negative 42; for the vote see Appendix I, roll call 264].

No. 34, "Schedule," was then read the third time. And the question having been put on the passage of the same, it was decided in the affirmative. And the ayes and noes being required by the rules, those who voted in the affirmative were [affirmative 74, negative 12; for the vote see Appendix I, roll call 265].

A. Hyatt Smith, by leave, introduced the following resolution, to wit: "*Resolved*, That the secretary of the convention be instructed to issue a certificate to Darwin Clark for the appropriation made to him." And the rules having been first suspended for the consideration of the said resolution, it was adopted.

Mr. Beall asked that leave of absence be granted him after today. Leave was granted.

Horace Chase moved to reconsider the vote rejecting the second division of Mr. Bell's resolution. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 50, negative 38. For the vote see Appendix I, roll call 266].

Mr. Hunkins appealed from the decision of the Chair; which was, that it required a two-thirds vote to reconsider the vote rejecting the said second division of the resolution of Mr. Bell.

And the question having been put, "Shall the decision of the President stand as the judgment of the convention?" it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 61, negative 23; for the vote see Appendix I, roll call 267].

The resolution introduced by Mr. Manahan on the seventh instant, relative to the repeal of the charters of incorporation, was taken up, when Mr. Ryan moved that the committee of the whole be discharged from the further consideration of the same, which was agreed to.

Mr. Parsons moved to amend the same by striking out the first section and inserting "the legislature shall have power at all times to alter, amend, or repeal any act of incorporation hereafter passed, whether such act shall be by general or special law; but no special act of incorporation shall be repealed except by a vote of two-thirds of each house of the legislature, unless in pursuance of a right of repeal reserved in the act creating such incorporation," which was disagreed to.

Mr. Dennis moved to amend by adding the following section, to wit: "Section 2. The legislature shall contract for the printing of all laws and legislative journals to the lowest and best bidder, upon reasonable notice being given thereof, and as far as practicable all other state printing shall be contracted for in the same manner."

Mr. Magone moved to amend the amendment by adding, "provided the legislature may deem it expedient so to do." And the question having been put, it was decided in the negative. And the ayes and

noes having been called for and ordered, those who voted in the affirmative were [affirmative 19, negative 56; for the vote see Appendix I, roll call 268].

The question then recurred on the amendment of Mr. Dennis. And having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 45, negative 35; for the vote see Appendix I, roll call 269].

Mr. Burt moved to amend the resolution by striking out the first section. And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 24, negative 55; for the vote see Appendix I, roll call 270].

Mr. Rogan moved to amend the said resolution by adding the following section: "Section —. It shall be the duty of the legislature at its first session and at any session thereof after the adoption of this constitution to pass such laws as may be necessary to secure the integrity of the ballot box, prevent fraud and corruption in elections, and preserve the purity of the elective franchise," which was disagreed to.

The question was then put on ordering the said resolution to be engrossed for its third reading [and was decided in the negative]. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 41, negative 41; for the vote see Appendix I, roll call 271].

Asa Kinne asked that leave of absence be granted him for the remainder of the session, which was agreed to.

Wm. R. Smith, from the committee on contested elections, to whom it had been referred to inquire into the expediency of paying the expenses of Mr. Burchard and M. J. Bovee in contesting the seat of Mr. Burchard, made the following report:

"The committee on contested elections, to whom was referred the resolutions in relation to the expenses of Charles Burchard and Matthias J. Bovee, report:

"That Charles Burchard has exhibited a bill of expenses the items of which in the aggregate amount to $67.

"That Matthias J. Bovee has exhibited no bill whatever.

"That, as Charles Burchard was the sitting member in virtue of his certificate of election, as Matthias J. Bovee has failed in his application contesting the seat of Mr. Burchard, and as Mr. Burchard was obliged, by the action of the convention, to incur considerable expense in traveling and in taking depositions, a majority of the committee have agreed to the following resolutions:

"'*Resolved,* That Charles Burchard be allowed the sum of $67 to defray his necessary expenses incurred as above stated, and that the secretary of the convention issue a certificate to him for the same.'

"'*Resolved,* That the committee be discharged from the further consideration of the claim of M. J. Bovee.'

Wm. R. Smith, Chairman"

Mr. Manahan introduced the following resolution, to wit: "*Resolved,* That the president of this convention be instructed to issue certificates to each of the members of this convention for two dollars per day from the fifth day of October to the day of adjournment, inclusive, upon which certificates shall be endorsed the amount paid to each member."

Messrs. Gilmore, Giddings, and Moore asked that leave of absence be granted them from and after today. Leave was granted.

Mr. Burt introduced the following resolution, to wit: "*Resolved,* That the treasurer of the territory be requested forthwith to report to the secretary of this convention the amount of per diem and mileage paid to each member of this convention."

Mr. Elmore moved that the resolution introduced relative to the pay of members and officers of the convention be taken up and referred to a select committee of three, which was agreed to.

The President announced the appointment of the following committee to whom the said resolutions were referred, viz., Messrs. Elmore, Manahan, and Baker.

Mr. Magone, by leave, introduced the following resolution, to wit: "*Resolved,* That this convention adjourn without day on Tuesday, the fifteenth instant."

Mr. Huebschmann moved that the same be laid upon the table, which was agreed to.

On motion of Mr. Ryan the convention adjourned until tomorrow morning.

FRIDAY, DECEMBER 11, 1846

Prayer by the Rev. Mr. Miner.

The reading of the journal of yesterday was dispensed with.

Mr. Dennis moved that George Hyer be added to the committee on expenses, which was agreed to.

Mr. Parks, from the committee on revision, reported back articles from 1 to 8 inclusive, with amendments. And the question having been put on concurring in the first amendment of the committee, which was to add to the nineteenth section of the article on the judiciary the words "and all indictments shall conclude against the peace and dignity of the state," it was decided in the affirmative.

The question was then put on concurring in the second amendment of the committee, which was to strike out "Richland," where it occurs in the apportionment of representatives, in article No. 10, and insert the same immediately after the word "Crawford," which was agreed to.

Mr. Baker moved to amend the seventh section by striking out the words "or who shall be a defaulter to the United States or to this state," which was disagreed to.

Moses M. Strong gave notice that he would on some future day move to reconsider the vote by which the article relative to the boundary of the state was passed.

Moses M. Strong moved to take up the motion of Mr. Vineyard to reconsider the vote on the passage of the resolution relative to colored suffrage, and also moved a call of the convention, which was ordered, and Messrs. John M. Babcock, Hiram Barber, J. Allen Barber, Bowker, Hiram Brown, Burchard, Clark, Edgerton, Elmore, Green, Hazen, N. F. Hyer, Judd, Asa Kinne, Madden, Noggle, Patch, Randall, Rogan, George B. Smith, Vineyard, and Vliet, reported absent.

Messrs. N. F. Hyer, J. Allen Barber, Burchard, Vineyard, Vliet, Asa Kinne, Hazen, and Hiram Barber were excused from their attendance.

The serjeant at arms was sent for the absentees.

Moses M. Strong moved that the absentees be excused, which was disagreed to.

Mr. Judd moved that all further proceedings under the call be dispensed with, which was agreed to.

The question then recurred on reconsidering the vote on the passage of the resolution relative to colored suffrage, when Mr. Dennis moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the affirmative.

And the question having been put on the motion of Mr. Vineyard, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 25, negative 63; for the vote see Appendix I, roll call 272].

Moses M. Strong gave notice that in proper time in deference to the feelings of his colleague (Mr. Parkinson) he would move a reconsideration of the vote by which the ordinance on boundaries was passed, for the purpose of striking out the proviso of the gentleman from St. Croix (Mr. Holcombe).

Mr. Strong then spoke in a high tone of panegyric of the constitution as a whole. In beauty without an equal in the annals of constitutions! He thought, to be sure, it had faults, but then those faults and blemishes only made the virtues shine the more brightly, and concluded his remarks on that head with the sentiment, "With all thy faults I love thee still." He would give it a hearty support with all the energy of his nature —but there was one thing to go forth with the constitution, not as a part of it, which neither he nor his constituents could support—the resolution for the separate submission of the negro suffrage question. He had no fear of the effects of the resolution himself, but spoke of the extreme prejudice with which his constituents in the west regarded the Yankees of the east —they would regard it as a sort of "mental reservation," and would go against the whole constitution, he feared. He therefore moved to take up the motion to reconsider the passage of that article, made by Mr. Vineyard. He called on those who were friends to the constitution as it is to give him their support. He did not ask it of those who had made up their minds to oppose it from other reasons. He spoke of Mr. Parks, whom he had asked for support, and who, he said, had refused, on the ground that he should oppose the whole constitution on account of the article on married women, which course he considered perfectly honorable on the part of that gentleman. He did not call on those who were going to oppose the constitution, but he did call on its friends to support him in this measure.

Mr. Parks then said that, as he had been alluded to, he would say that he agreed with the gentleman from Iowa in his praise of the constitution as a whole. He considered it as beautifully and concisely drawn. "But," said he, "there is one article which upsets the whole—that on the rights of married women." His constituents were not willing to leave established ways, and the old common law, and strike into an unknown sea. He said

that article would lead to vice and confusion unutterable and to the worst kind of an aristocracy. It will bring back all the evils of entail and accumulate great fortunes to prevent their use in business.

The question was then taken, and the convention refused to reconsider—ayes 25, noes 63.—*Express,* Dec. 15, 1846.

Mr. Elmore, from the select committee to whom had been referred sundry resolutions relative to the per diem of members and officers, reported the following resolutions, to wit: "*Resolved,* That certificates, signed by the president and secretary of this convention, be issued to each member who has been in attendance for the balance due him for attending said convention from the fifth day of October to the —— day of December inclusive, at two dollars per day, and that certificates be also issued to the officers thereof for the balance due them for their services.

"*Resolved,* That said certificates may be presented to the auditor of the territory, who is hereby required to issue warrants on the treasurer of the territory in such amounts as may be required, corresponding in the aggregate with the whole amount of each certificate so presented."

On motion of Moses M. Strong the convention took a recess until two o'clock, P. M.

TWO O'CLOCK, P. M.

The resolution introduced by Mr. Bennett on yesterday, relative to paying the assistant librarian, was taken up and adopted.

The resolution introduced by Mr. Gibson on yesterday, relative to a separate submission of the article on banks and banking, was taken up, when Mr. Baker moved to amend the same by inserting before the word "banks," the words "the sixth section of the."

Mr. O'Connor moved that the said motion be laid upon the table. And the question having been put, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 44, negative 26; for the vote see Appendix I, roll call 273].

The resolution introduced by William R. Smith on the twenty-seventh ult., relative to printing the constitution and journals, was taken up, when Wm. R. Smith moved to amend the same by striking out all of the first resolution after the word "signatures," and insert[ing] the words "Done in convention at Madison, the —— day of December, in the year of our Lord one thousand eight hundred and forty-six, and of the independence of the United States of America, the seventy-first," which was agreed to.

Mr. Toland moved to amend the second resolution by inserting after the word "printed" the words "in the English, 5,000 copies in the German, and 5,000 in the Norwegian language."

Mr. Phelps moved to amend the amendment by adding "1,000 copies in the Winnebago, 1,000 in the Chippewa, and 500 in the Potawatomi tongues," which was disagreed to.

Wm. R. Smith moved to amend the [third] resolution by striking out all in the first line to the word "be," and insert[ing] "that the secretary of the convention shall prepare the journal for publication, and shall procure 500 copies thereof to," and also to insert after the word "printed," the words "printer to the convention."

Mr. Huebschmann moved to amend the amendment by striking out the words "printer to the convention," and insert[ing] "by Moritz Schoeffler." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 13, negative 63; for the vote see Appendix I, roll call 274].

Mr. Ryan moved to amend the amendment by striking out the words "printer to the convention." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 12, negative 63; for the vote see Appendix I, roll call 275].

Mr. Bevans moved to amend the amendment by striking out all after the word "by," and insert[ing] "the lowest bidder who shall give good security for the performance of his contract," which was disagreed to.

A. Hyatt Smith moved to amend the amendment by striking out the words "secretary [printer] to the convention," and insert[ing] the words "George Crabb." And the question having been put, it was decided in the negative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 12, negative 63; for the vote see Appendix I, roll call 276].

Mr. Brace moved to amend by striking out the words "printer to the convention," and insert[ing] the words "H. A. Wright, publisher of the Prairie du Chien *Patriot*," which was disagreed to.

The question then recurred on the amendment of William R. Smith, and, having been put, it was decided in the affirmative.

Mr. Huebschmann moved to amend the resolution by adding the following: "*Resolved*, That a committee of three members, of which the president shall be chairman, be appointed to make a contract with Moritz Schoeffler to translate the constitution into the German and Norwegian languages, and for the printing of 5,000 copies thereof in the German language and 5,000 thereof in the Norwegian language."

Mr. Baker moved to amend the amendment by striking out "a committee of three members, of which the president shall be chairman," and insert[ing] "the secretary of this convention," which was disagreed to. The amendment of Mr. Huebschmann was then adopted.

William R. Smith moved to amend by adding the following resolution: "*Resolved*, That the accounts of the printer for the printing of the constitution and of the journal shall be examined and settled by the secretary of the convention, at the same rate as has been heretofore allowed by the legislature for printing the journal, and he shall issue his certificate to the printer for such amount as shall be found

due, which said certificate shall be a sufficient authority for the treasurer of the territory to pay the said amount out of the funds appropriated to pay the expenses of the convention, and that the secretary, on publication of the said constitution and journal, shall distribute the same according to the foregoing resolutions, and that the secretary shall be allowed the sum of $200 out of the territorial treasury for such services."

Moses M. Strong moved the previous question, which was seconded. And the question having been put, "Shall the main question be now put?" it was decided in the negative. So the further consideration of the said resolution was postponed until tomorrow.

On motion of Mr. Dennis the convention adjourned until tomorrow morning at ten o'clock.

Saturday, December 12, 1846

Prayer by the Rev. Mr. McHugh.

The reading of the journal of yesterday was dispensed with.

Mr. Dennis, from the committee on expenses, made the following report, to wit:

"The committee on expenses make the following report: '*Resolved*, That the following expenses of the convention be allowed as follows, to wit:

To William Pyncheon, for work done in preparing room for convention,	$14.00
To Levi Putnam, for labor,	6.00
To Blanchard & Co., for crape,	4.88
To Baxter & Hall, for crape,	4.50
To Shield & Sneden, for crape,	12.24
To Daniel N. Johnson, for 24 days' writing,	72.00
To the following clerks of courts, for furnishing an abstract of the business of their respective courts, in pursuance of a resolution of the convention, to wit:	
To John E. Holmes,	5.00
To Jonathan Wyatt,	5.00
To Simeon Mills,	5.00
To Isaac Brown,	5.00
To William Rittenhouse,	5.00
To William T. Henry,	15.00
To LaFayette Kellogg, clerk supreme court,	5.00
To E. B. Dean, for candles, brooms, oil, etc.	38.75

"'*Resolved*, That the treasurer of the territory pay the foregoing appropriations out of any funds in his hands subject to the control of the convention.'"

Mr. O'Connor introduced the following resolution, which was read, to wit: "*Resolved*, That the sum of $100 be paid to each of the assistant secretaries for extra writing done for this convention."

A. Hyatt Smith introduced the following resolution, which was read, to wit: "*Resolved*, That the sum of one dollar per day be paid to each of the assistant secretaries, for extra writing done by them during the session." A. Hyatt Smith moved that the rules be suspended for the consideration of the said resolution, which was disagreed to.

Mr. Parks, from the committee on revision, reported the constitution as arranged by them, with amendments.

The first amendment, which was to amend the article on suffrage and the elective franchise, by striking out the tenth section thereof, and inserting it in the article on the constitution and organization of the legislature, was concurred in.

Mr. Ryan moved to amend the report of the committee by inserting in article No. 2, between the words "the" and "Indian" the words "mixed white, and," and also by striking out the word "the" and moved a suspension of the rules for the consideration of said motion, which was disagreed to.

The second amendment of the committee, which was to strike out the first section of the article on eminent domain and property of the state, was concurred in.

Mr. Ryan moved to amend the article on the rights of married women and on exemption from forced sale by inserting after the word "dollars," in the sixth line, the words "owned and occupied by any resident of the state," which was agreed to.

Mr. Ryan moved to amend the said article by striking out the word "respectful" in the eighth line of section 8, and also by striking out the words "and authentic" and insert the letter "a," which was agreed to.

Mr. Ryan moved to amend article No. 21 by striking out the word "colored" in the title, and insert[ing] the word "negro," and also by striking out the word "colored" wherever it occurs in the resolution and inserting the words "African blood," which was agreed to.

A. Hyatt Smith moved that the article on negro suffrage be enrolled on a separate parchment and signed by the president and secretary.

Mr. Hicks moved to amend the motion by striking out all after the word "parchment," and insert[ing] "and signed in like manner as the constitution," which was disagreed to.

The question then recurred on the motion of A. Hyatt Smith. And having been put, it was decided in the affirmative.

On motion of Mr. Ryan the convention adjourned until four o'clock, P. M.

FOUR O'CLOCK, P. M.

Mr. Dennis, from the committee on expenses, reported the following resolution to wit: "*Resolved,* That the following sums be allowed for incidental printing and for newspapers furnished the convention, to wit:

To W. W. Wyman, for balance due him for newspapers,	$203.00
To Simeon Mills & Co., for balance due them for newspapers and printing,	560.39
To Beriah Brown, for balance due him for newspapers,	800.00
To Beriah Brown, printer to the convention, for balance due him for incidental printing,	474.34

"In the bill of Beriah Brown, the committee find that a small portion of the work has been performed out of the usual mode, which makes an extra charge for press work, but as the work has been done, the committee have agreed upon allowing the same.

"*Resolved,* That certificates for the foregoing appropriations signed by the president and secretary of the convention be issued to the per-

sons to whom said appropriations are made, respectively, and that said certificates may be presented to the auditor of the territory who is hereby required to issue warrants on the treasurer of the territory in such amounts as may be required, corresponding in the aggregate with the whole amount of each certificate so presented, and the treasurer of the territory is hereby directed to pay the same."

And the question having been put on the adoption of the said resolutions, it was decided in the affirmative.

Mr. Parkinson introduced the following resolution, which was read, to wit: "*Resolved,* That the treasurer be directed to pay out of the first moneys in the treasury for that purpose to Joshua White the sum of $66 dollars, his mileage and part pay per diem; and the sum of $50 to Andrew Burnside, as part pay for per diem allowance to him as a member of this convention."

The resolution introduced by Mr. Dennis on the second instant, relative to the per diem of the members,was taken up, when A. Hyatt Smith moved that the consideration thereof be postponed indefinitely.

Horace Chase moved that the blank be filled with "twelve," which was disagreed to.

Mr. Burt moved that the same be filled with "ten."

Mr. Huebschmann moved that the same be laid upon the table, which was agreed to. And a division having been called for, there were 28 in the affirmative and 23 in the negative.

The resolution introduced by Wm. R. Smith on the twenty-seventh ultimo, relative to printing the journal, etc., was taken up, when Wm. R. Smith modified his amendment thereto by striking out "two hundred" in the allowance of the secretary for preparing the journal, and inserting "four hundred" in lieu thereof. And the question having been put on said amendment as modified, it was decided in the affirmative.

Mr. Baker moved to amend by striking out the words "the use of," and insert[ing] "distribution by," which was agreed to.

A. Hyatt Smith moved to amend by striking out before the word "German" the word "5,000" and insert[ing] the word "10,000," which was disagreed to. The said resolutions were then adopted.

The resolution introduced by Mr. O'Connor this morning, relative to the payment of the assistant secretaries, was taken up, when Mr. Ryan moved to amend by striking out all after "resolved" and insert[ing] "that each of the assistant secretaries be paid four dollars per day." And the question having been put, it was decided in the affirmative.

The Chair decided that the resolution would be postponed, as no quorum voted.

On motion of Mr. Ryan the convention adjourned.

MONDAY, DECEMBER 14, 1846

Prayer by the Rev. Mr. Miner.

The reading of the journal of Saturday was dispensed with.

Mr. Bowen moved a call of the house, which was ordered. And a quorum being found in attendance, all further proceedings under the call were dispensed with.

The President announced the appointment of the following committee, under the resolution relative to printing 500 copies of the constitution in the German and 500 in the Norwegian language, to wit: Messrs. Huebschmann and Hunkins.

George Hyer moved that Andrus Vial have leave to withdraw the contract entered into between himself and Ezra L. Varney and the superintendent of territorial property for plastering the convention chamber.

A. Hyatt Smith moved to amend the motion so as to require the secretary of the convention to endorse the resolution allowing to said Vial & Varney the sum of one hundred dollars on said contract, which was agreed to. And said resolution having been so endorsed he was allowed to withdraw the contract from the files of the convention.

The resolution relative to extra pay of assistant secretaries, introduced by Mr. O'Connor on Saturday last, was taken up. And the question being on concurring in the amendment of Mr. Ryan, which was to strike out all after the word "resolved" and insert "that each of the assistant secretaries be paid four dollars per day during the time they have been employed as such, in full payment of their services," Horace Chase moved to amend the amendment by adding the following, to wit:

"And WHEREAS, it appears by the report of the committee appointed to ascertain from the territorial treasurer the amount of funds in his hands appropriated to pay the expenses of the convention that he has at this time no funds whatever. And WHEREAS, it is uncertain at what period any funds arising from the sale of canal lands may come into the hands of the territorial treasurer, and WHEREAS, the delegates to this convention in anticipation of such period will be obliged to receive certificates of pay which are at this time valued at twenty-five per cent below par: therefore,

"*Resolved*, That the president of the convention issue a certificate to each member thereof for the additional sum of one dollar for each day's attendance on the same, from the third day of November last, at which time fifty dollars in cash was paid to each member by the territorial treasurer."

And the question having been put on the said amendment, it was decided in the negative. And the ayes and noes having been called for

and ordered, those who voted in the affirmative were [affirmative 27, negative 40; for the vote see Appendix I, roll call 277].

Horace Chase then moved to amend the amendment by adding the same as the one offered previously by him, with the exception of striking out "one dollar" and inserting "fifty cents" in lieu thereof. And the question having been put on said amendment, it was decided in the affirmative. And the ayes and noes having been called for and ordered, those who voted in the affirmative were [affirmative 39, negative 38; for the vote see Appendix I, roll call 278].

Mr. Drake then moved further to amend the amendment by striking out "four dollars" in the pay of the assistant secretaries, and inserting "three dollars and fifty cents" in lieu thereof, which was disagreed to.

Mr. Moore then moved to amend by adding, "and that the sergeant at arms, doorkeepers, messengers, and firemen be allowed the sum of two dollars and fifty cents per day for their services, from the third day of November until the day of adjournment inclusive," which was agreed to.

The question was then put on the amendment as amended and was decided in the affirmative. The resolution as amended was then adopted.

Mr. Boyd offered the following resolution, which was adopted to wit: "*Resolved*, That the Rev. Stephen McHugh and the Rev. S. E. Miner be allowed such sum as together with what they have already received will amount to one hundred dollars, each, for their services as chaplains to this convention, to be paid out of any moneys in the treasury applicable to the payment of the expenses of this convention."

A. Hyatt Smith offered the following resolution, which was adopted, to wit: "*Resolved*, That this convention do adjourn sine die on Wednesday, the sixteenth day of December instant, at eight o'clock, A. M."

On motion of Mr. Randall the convention adjourned.

Tuesday, December 15, 1846

Prayer by the Rev. Mr. McHugh.

The reading of the journal [of yesterday] was dispensed with.

Mr. Bennett introduced the following resolution, which was adopted, to wit: "*Resolved*, That Beriah Brown be allowed five dollars for printing 150 certificates for the convention."

On motion of Mr. Elmore the convention adjourned until tomorrow at eight o'clock, A. M.

Wednesday, December 16, 1846

The reading of the journal of yesterday was dispensed with.

Mr. Jenkins offered the following protest, which was read and ordered to be entered upon the journal of the convention, to wit:

"The undersigned, not having had an opportunity to record his vote against the passage of the resolution entitled "Resolution of Saturday, December 12, 1846, relative to raising the pay of members and officers," for the reason that the convention refused to order the vote on the passage of said resolution to be taken by ayes and noes, hereby protests against the passage of said resolution and places his protest on the journal of the convention.

"The reason for which he protests against the passage of said resolution is the following, to wit: That the convention have no power to pass any resolution giving to the officers or members thereof any greater pay than that allowed by law.

Thomas Jenkins."

Mr. Elmore, from the committee on revision, reported the constitution as correctly enrolled.

Wm. R. Smith introduced the following resolution, which was adopted, to wit: "*Resolved,* That the thanks of this convention be given to the Hon. D. A. J. Upham, for his able, faithful, and impartial discharge of the arduous duties of president of the convention, during the session of the same."

Mr. Randall moved that the convention adjourn sine die. And the question having been put, Mr. Magone in the chair, it was decided in the affirmative.

The President then rose and addressed the convention as follows:

Gentlemen of the Convention:

Our deliberations are finished, and it has become my duty, for the last time, to address you. We have performed a work of no ordinary labor and difficulty, and, be it for good or evil, we have this satisfaction—it must receive the sanction of the sovereign people before it can become operative. The difficulties we have encountered have perhaps been greater than most of us in the outset anticipated, and yet, so far as we have been able to discover, they have not originated in most cases so much from any great difference of opinion as to fundamental principles as in the manner and mode of carrying them out. That we have made a constitution that will not meet with serious opposition is perhaps not to be expected. When we reflect upon the present situation of this territory, settled as it has been by citizens of almost all the states of the Union, as well as with a large emigration from several of the foreign states, it is unreasonable to suppose that we could frame our fundamental law except in a spirit of compromise. We have this con-

solation, that no one objectionable feature in this constitution is considered objectionable in every section of the territory. What is considered objectionable in one section is a favorite article in another, and so of almost every feature of our work that has as yet met with any serious opposition. When our whole work is fairly laid before the people, and calmly and deliberately investigated by them, and when, too, they come to reflect upon the care and facility with which the features individually objectionable to each may be altered or amended at any time when such amendments can receive the approval of a majority of the whole people, and also when they reflect that the same difficulties and diversity of opinions will in all probability exist in case another convention, composed of entirely new members, should be called at any early period, cannot we expect, under such circumstances, that our constituents will look upon the subject with the same spirit of compromise, by which, only, their representatives have been able to accomplish their work?

To you, gentlemen, on this occasion, it is my duty to say, as well from the vote which you have just ordered to be entered upon your journal, as from your kind indulgence and generous support on all occasions, through our protracted, and sometimes exciting deliberations, I am under the greatest obligations and return you my most sincere thanks. When elected your presiding officer I had had no experience or acquaintance for several years of parliamentary law, and necessarily, at the early stages of our session labored under many difficulties in deciding questions of order, without time for deliberation and examination. It has been my utmost endeavor on all occasions to decide impartially and correctly, and although I may have often erred, it is no small consolation to feel that I have always enjoyed the confidence and good opinion of the convention. To preside over a large deliberative body is always arduous and sometimes difficult; and it has often been said by the presiding officers in our national council that the good order and decorum of such bodies depend mainly upon the dignity and sense of propriety of the individual members, and I hazard the opinion that the general propriety and dignity maintained in our deliberations will advantageously compare with that of most legislative bodies of the same size.

During our session we have been called to mourn the loss of one of our most distinguished, useful, and most talented members, under circumstances calculated to awaken the deepest sympathy and feeling in every bosom. May we profit by this sad dispensation, and when we leave this hall may we forget everything unpleasant that has occurred between us as individuals, hold on to the good, and cherish in our memories all that will elevate, ennoble, and improve our common nature. We part—many of us never again to meet this side of eternity.

In conclusion, permit me to wish you a safe return to your friends and families, and may the blessings of an over-ruling Providence rest upon us all.

I have now only to perform the last duty assigned me—I pronounce this convention adjourned without day.

The convention then adjourned sine die.

APPENDIX I

NUMBER OF ROLL CALL

Members.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Agry	a	a	a	a	n	a	n	n	n	n	n	a	a	a	n	n	n	a	a	a	n	a	a	n	..	n	a	a	..	..	n
Atwood	..	a	a	a	n	a	n	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	a	n	n	a	a	n	a	a
Babcock, B.	..	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Babcock, J. M.	..	a	a	a	n	a	n	n	n	a	n	a	a	a	n	n	n	a	a	..	..	a	a	a	..	..	a	a	..	..	n
Baird	a	a	a	a	n	n	n	n	n	n	a	n	n	n	a	a	a	n	n	a	a	n	n	n	a	a	n	n	a	n	n
Baker	n	n	a	n	n	a	n	n	n	..	n	n	n	n	n	n	n	a	a	a	n	a	n	..	..	..	..	a	n	a	n
Barber, H.	n	a	a	a	n	a	n	n	n	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	n	a	a	n	n	a	n
Barber, J. A.	..	..	..	..	..	..	a	n	n	n	a	n	n	n	a	a	a	n	n	a	a	n	a	a	n	n	a	a	n	a	n
Beall	a	a	a	a	n	a	n	n	n	a	a	a	a	a	a	a	a	n	a	n	n	a	n	a	n	a	n	n	n	a	n
Bell	n	a	a	n	n	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	a	a	a	a	n	n	a	a	n	n	a	n
Bennett	a	a	..	n	a	a	a	a	a	n	a	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	n	n	n
Berry	..	..	..	..	..	..	a	n	n	a	a	n	a	a	a	n	n	a	a	n	a	n	a	a	n	n	a	a	n	a	n
Bevans	a	a	..	..	n	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	a	a	a	a	n	n	a	a	a	n	n
Bowen	..	n	..	..	a	n	..	..	..	.	.	..	..	..	..	..	..	..	..	..	n	n	a	a	n	n	n	a	a	n	n
Bowker	n	n	a	n	n	a	n	n	n	n	n	a	a	a	n	n	n	a	a	a	n	..	a	n	n	n	a	..	a	n
Boyd	n	n	a	n	n	a	n	n	n	n	n	n	n	n	n	n	n	a	a	a	a	n	a	n	a	n	a	a	n	a	n
Brace	..	..	..	..	..	..	..	n	n	a	n	a	a	a	n	n	n	a	a	a	a	n	a	n	n	n	a	a	n	n	n
Brown, H.	n	n	a	a	a	a	a	a	a	n	n	a	a	a	n	n	n	a	a	n	n	a	n	n	n	n	a	a	n	n	n
Browne, C. E.	n	..	a	a	..	a	n	n	n	n	..	a	a	a	n	n	n	a	a	a	a	n	a	n	n	n	a	a	n	n	n
Burchard	n	n	a	a	a	a	n	n	n	n	a	n	n	n	a	a	a	n	n	a	a	n	n	n	a	a	n	n	n	n	a
Burnett	..	a	..	..	..	a	n	n	n	n	n	n	n	a	n	n	n	n	a	a	n	n	a	a	n	n	a	a	a	n	n
Burnside	n	a	a	a	..	..	a	..	..	..	n	a	a	a	n	n	n	a	a	n	n	a	a	a	n	n	a	a	n	n	n
Burt	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	a	n	a	n	a	a	n	n	..	..	n
Cartter	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	n	n	a	a	n	n	n	a	a	n	a
Chamberlain	..	n	a	a	a	a	n	a	a	a	n	a	a	a	n	n	..	a	a	n	n	a	..	n	n	n	a	..	..	..	..
Chase, H.	..	..	..	..	a	n	n	n	n	n	n	n	n	a	n	n	n	n	a	a	a	n	a	n	a	n	a	a	..	..	n
Chase, W.	a	a	a	a	n	a	n	n	n	a	n	a	a	a	n	n	n	a	a	n	a	n	a	n	n	n	a	a	n	a	a
Clark	n	a	a	n	a	a	a	a	a	a	n	a	a	a	..	..	..	..	..	n	n	a	a	..	..	..	a	..	..	..	n
Clothier	..	..	..	..	..	..	a	n	n	n	n	n	a	n	a	a	a	n	n	a	a	n	a	n	a	n	a	a	a	n	n
Coombs	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Cooper	n	n	a	a	n	a	n	n	n	n	n	n	n	n	n	a	n	n	n	a	a	n	a	n	n	n	n	a	..	..	..
Coxe	n	n	n	n	n	n	n	n	n	n	n	n	n	n	n	n	n	a	a	n	a	n	n	n	n	a	a	n	n	n	n
Crawford	a	a	a	a	n	a	n	n	n	n	n	n	n	a	n	a	n	a	a	a	a	n	n	a	a	n	n	a	a	n	n
Cruson	n	a	..	..	n	a	n	n	n	n	a	n	n	a	a	a	a	a	n	a	a	n	a	n	a	n	a	n	a	n	n
Dennis	n	a	a	a	n	a	n	n	..	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	n	a	n
Dickinson	a	a	a	n	..	a	n	n	n	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	..	..	..
Doty	a	a	a	a	a	a	n	n	n	a	n	n	n	n	a	a	n	a	a	n	a	n	n	a	n	a	a	a	n	a	a
Drake	n	a	..	..	n	a	n	n	n	n	a	n	n	n	a	a	a	n	n	a	a	n	..	a	a	n	n	n	n	a	a
Dunning	a	a	a	n	n	a	a	a	a	a	n	a	a	a	n	a	n	a	a	n	n	a	n	a	n	n	a	..	n	n	n
Edgerton	n	n	n	n	n	a	n	n	n	n	n	n	n	n	a	a	a	a	n	a	a	n	a	n	a	n	n	n	a	a	n
Ellis	n	a	..	..	a	a	n	n	n	n	n	n	n	n	a	a	a	n	n	a	a	n	n	n	a	a	n	n	n	a	n
Elmore	n	n	a	a	n	n	a	a	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Fitzgerald	n	a	a	..	a	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	n	..	..	..	..	..	..	..	n	n	n
French	a	a	a	n	n	a	a	a	n	n	a	n	n	n	a	a	a	a	n	n	a	n	n	n	a	n	n	n	n	a	n
Fuller	n	n	a	a	n	a	n	n	n	a	n	n	n	a	n	n	n	a	a	a	n	a	n	n	n	n	a	a	n	a	n
Gibson	a	a	a	a	n	a	n	n	n	n	a	n	n	n	a	a	a	n	n	a	a	n	a	n	a	a	n	n	a	a	a
Giddings	n	a	a	a	n	a	a	n	n	n	a	n	n	n	a	a	a	n	n	a	a	n	a	n	a	a	n	n	n	a	a
Gilmore	..	..	..	..	..	..	a	n	n	r	n	a	n	n	a	a	a	n	a	n	a	n	a	n	n	a	a	n	n	a	n
Goodell	n	a	a	a	n	a	n	n	n	a	n	a	a	a	n	n	..	a	a	n	a	n	a	n	a	n	n	n	a	a	n
Goodrich	a	a	a	n	a	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	a	n	n	a	a	n	n	n
Goodsell	n	a	a	a	a	a	n	n	a	a	n	a	a	a	n	n	n	a	a	a	a	a	a	n	..	n	a	a	n	n	..
Graham	n	a	a	a	a	n	n	n	n	a	n	a	a	a	a	n	n	a	a	n	n	a	n	a	n	n	a	a	n	n	n
Granger	n	a	a	..	n	a	n	n	n	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	n	a	n
Gray	n	n	n	n	n	a	n	n	n	a	n	n	n	n	a	a	a	n	n	n	n	a	a	a	n	a	n	n	a	n	n
Green	..	..	a	n	n	a	n	n	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	..	..	..
Hackett	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	n	n	n	a	n	a	n	a	a	n	n
Hall, G. B.	n	n	a	n	n	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	n	a	..	n	n	a	a	n	a	n
Hall, J. H.	a	a	a	..	a	a	n	n	a	a	n	a	a	a	n	..	n	a	a	..	..	..	..	..	..	..	..	..	..	..	..
Hammond	a	a	a	n	a	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	a	n	a	a	n	n	a	a	n	n	n
Harkin	a	a	a	n	a	a	n	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	n	n	n
Hawes	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Hays	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	n	n	a	a	a	n	n	a	a	n	n

NUMBER OF ROLL CALL

Members.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Hazen	a	a	a	a	n	a	n	n	n	n	a	n	n	n	a	a	a	n	n	a	a	n	a	n	a	a	a	n	n	a	n
Hesk	n	a	a	a	a	a	n	n	n	n	n	n	n	n	a	a	n	a	a	a	a	n	n	n	n	a	a	a	n	a	n
Hicks	..	..	..	..	..	a	a	n	n	n	n	a	a	a	n	n	n	a	a	n	a	n	n	a	n	n	a	a	n	n	n
Hill	n	a	a	a	n	a	n	n	n	n	a	n	n	n	a	a	a	n	n	a	n	n	a	n	a	a	n	n	n	n	..
Holcombe	..	..	..	..	..	a	..	a	a	a	n	a	a	a	n	n	n	n	a	n	n	a	a	a	n	n	a	a	n	n	n
Huebschmann	n	n	a	n	n	a	n	n	n	n	n	n	n	a	n	a	n	a	a	a	a	n	a	n	a	n	a	a	n	a	n
Hunkins	..	..	..	..	..	..	n	n	r	n	n	n	n	a	a	n	a	n	a	a	a	n	a	n	..	n	n	n	n	a	a
Hyer, G.	a	a	a	a	a	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	a	a	n	a	n	n	a	a	..	..	n
Hyer, N. F.	a	a	a	a	n	a	n	n	n	a	..	..	..	..	..	..	..	..	..	..	n	a	n	a	n	n	n	a	a	..	a	n
Inman	n	a	a	n	a	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	..	..	..
James	n	a	a	n	a	a	n	n	a	a	n	..	..	..	n	n	n	a	a	n	a	a	a	n	n	n	a	a	n	n	n
Janssen	n	n	a	a	a	a	n	n	n	n	n	n	n	a	n	n	n	a	a	n	a	a	a	n	n	n	a	a	n	n	n
Jenkins	n	a	n	n	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	n	n
Judd	n	a	a	a	n	a	n	n	n	n	n	n	n	a	n	n	n	a	n	..	..	..	..	..	..	..	..	..	n	n	a	n
Kellogg	n	n	a	n	a	n	n	a	a	a	a	a	a	a	n	n	n	a	a	a	n	a	n	n	n	a	a	n	a	n	a
Kern	a	n	..	..	..	a	n	n	n	n	n	n	n	n	n	n	..	a	a	n	a	a	a	n	n	n	a	a	n	n	n
Kinne, A.	n	a	a	a	n	a	n	n	n	n	n	n	n	a	n	a	n	a	a	a	a	n	a	n	a	n	a	a	n	a	n
Kinney, J.	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Lovell	n	a	a	n	a	a	a	a	a	a	n	a	a	a	n	n	n	a	n	n	n	a	a	a	n	n	a	a	n	a	n
Madden	n	n	n	n	a	a	a	a	a	n	a	a	a	a	n	n	n	a	a	n	n	a	a	a	n	n	a	a	n	n	n
Magone	..	..	..	..	..	..	a	n	n	n	n	n	a	a	n	n	n	a	a	a	..	n	a	n	a	n	a	a	n	a	n
Manahan	..	..	a	a	a	a	n	a	a	a	n	a	a	a	n	n	n	a	a	..	..	..	..	..	..	..	..	..	a	n	a	n
Meeker	n	n	a	a	n	a	n	n	n	n	n	n	a	a	n	n	n	a	a	a	a	n	a	n	n	n	n	a	a	a	n	n
Mills	n	a	a	n	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Moore	..	..	a	a	n	a	n	n	n	a	..	..	..	..	..	n	n	a	a	a	a	n	a	n	a	n	a	a	n	a	a
Noggle	a	a	a	a	a	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	n	a	n
O'Connor	a	a	a	n	a	a	n	n	n	n	n	n	n	a	a	a	a	n	n	n	a	n	a	a	a	a	n	n	n	a	n
Parkinson	n	n	n	n	a	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	a	n	n	a	a	n	n	n
Parks	n	n	a	a	n	a	n	n	r	u	n	n	n	n	a	a	a	n	n	a	a	n	a	a	n	n	n	n	a	n	n
Parsons	a	a	a	n	n	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	n	a	n
Patch	..	..	..	..	..	..	a	n	a	a	a	n	a	a	a	n	u	n	a	a	n	n	a	a	n	n	n	a	a	n	a	n
Phelps	n	n	n	n	n	a	a	a	..	a	n	..	..	..	..	r	n	n	a	a	n	n	a	a	a	..	n	a	..	..	..	n
Pierce	a	a	a	n	a	a	..	..	..	..	n	a	a	a	r	n	n	a	a	n	a	n	a	n	a	n	a	a	n	a	n
Prentiss	n	a	..	n	n	a	n	n	n	r	n	n	n	n	s	a	a	n	n	a	a	n	a	n	a	a	n	n	a	a	..
Randall	..	..	..	..	..	a	n	n	n	n	n	n	n	a	..	a	n	n	u	a	a	n	a	n	a	n	n	n	n	a	a
Rankin	n	n	a	a	n	a	n	n	..	..	n	a	a	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	n
Reed	n	n	a	a	n	n	n	n	n	n	n	n	n	n	n	a	n	n	n	a	a	n	a	n	n	n	n	a	a	..	..	n
Rogan	n	n	a	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	n
Ryan	a	a	n	..	a	n	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	a	n	n	a	a	n	n	n
Seaver	n	n	a	a	n	a	n	n	n	n	n	a	a	a	n	n	n	a	a	a	a	n	a	n	a	..	..	a	n	a	n
Smith, A. H.	a	a	a	n	a	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	n	a	n
Smith, G. B.	a	a	a	a	..	a	n	n	n	a	n	a	a	a	a	n	n	a	a	n	n	a	a	n	n	n	a	a	a	n	n
Smith, J. Y.	..	..	n	n	a	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	..	..	..	..	a	n	n
Smith, S.	n	n	a	a	n	a	n	n	n	n	n	a	a	a	n	n	n	a	a	n	a	a	a	n	n	n	a	a	n	a	..
Smith, W. R.	n	n	a	a	n	a	n	n	n	n	n	a	a	a	n	n	n	a	a	n	a	n	n	n	n	n	a	a	n	n	n
Soper	n	a	a	n	n	a	a	a	a	n	n	a	a	a	n	n	n	a	a	..	..	a	a	n	n	..	a	a	n	n	n
Steele	a	a	n	n	a	a	n	n	n	a	n	n	n	a	a	a	a	a	n	..	..	..	..	..	..	..	..	..	..	..	..	..
Stockwell	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Strong, Mar.	a	a	n	n	n	a	a	a	a	a	n	a	a	a	n	u	u	u	e	e	u	u	u	u	e	e	u	u	e	e	u	u
Strong, Moses	n	n	n	n	a	n	a	a	a	a	n	a	a	a	n	n	n	a	n	n	n	a	a	a	n	n	a	a	n	n	n
Toland	n	a	a	a	a	a	n	n	n	n	n	a	a	a	n	n	n	a	a	..	a	n	n	n	n	n	a	a	n	n	n
Topping	n	n	a	n	n	a	n	n	n	n	n	n	n	n	n	n	n	a	a	a	a	n	a	..	..	..	..	..	..	..	..
Turner	..	..	a	a	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Tweedy	..	..	..	..	..	a	a	n	n	n	a	n	n	n	a	a	a	n	n	a	a	n	a	n	a	a	a	n	n	..	..	a
Upham	n	n	a	a	n	a	n	n	n	n	n	a	a	a	n	n	n	..	..	a	a	n	a	n	n	n	n	a	a	n	n	n
Vineyard	..	..	..	..	..	..	n	a	a	a	a	a	a	a	a	a	n	n	n	n	n	a	..	a	..	..	n	n	..	a	n	n
Vliet	n	n	a	a	n	a	n	n	n	n	n	n	n	n	n	n	n	a	a	a	a	n	a	n	n	n	a	a	n	a	n	n
Wakeley	n	n	a	n	n	a	n	n	a	a	n	a	a	a	n	n	n	a	a	a	a	n	a	n	n	n	n	a	a	n	a	n
White	n	n	a	n	a	a	a	n	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	a	n	n	n
Whiteside	n	n	a	n	a	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	..	a	n	n	a	..	n	n	n	n
Willard	a	a	n	n	n	a	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	n	a	a	n	n	n	a	a	n	n	n
Wilson	n	a	a	a	a	a	a	n	n	n	n	n	n	a	n	a	n	a	a	n	a	a	a	n	n	n	a	a	n	n	n

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Agry	n	n	a	a	n	n	a	a	a	n	a	a	n	a	n	a	a	a	.	.	.	.	.	.	.	.	a	a	a	a	a
Atwood	n	n	a	n	.	.	.	.	.	.	.	.	n	a	n	a	a	a	n	n	n	n	a	n	n	n	n	n	n	n	a
Babcock, B.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Babcock, J. M.	a	n	a	a	.	.	.	.	.	.	.	.	.	.	.	.	a	a	n	n	n	a	n	n	n	a	a	.	.	a	n
Baird	n	n	n	n	n	n	n	a	a	n	a	n	n	a	n	a	a	a	n	n	n	n	a	n	n	n	n	n	a	n	n
Baker	a	n	a	.	n	.	n	n	.	.	.	.	n	a	a	a	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Barber, H.	n	n	a	n	n	a	n	a	n	a	n	a	n	a	a	.	a	n	a	n	n	n	n	n	n	n	n	n	a	n	n
Barber, J. A.	a	n	n	n	n	n	n	a	a	n	a	n	a	n	a	n	a	.	n	n	n	a	n	n	n	n	n	n	n	n	n
Beall	n	a	a	n	a	a	a	n	n	a	n	a	n	a	a	.	n	n	n	n	n	a	n	n	n	n	n	n	a	n	n
Bell	.	.	a	n	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	a	.	.	.	.
Bennett	a	n	a	a	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Berry	n	n	a	n	n	n	a	n	n	n	n	a	n	a	a	a	a	n	a	a	n	n	.	n	a	a	a	n	n	a	n
Bevans	a	n	n	n	n	n	n	a	n	a	a	n	a	n	a	n	a	a	a	a	a	n	a	a	a	a	a	a	a	a	.
Bowen	a	n	a	n	n	n	.	.	.	.	.	.	.	.	.	.	a	a	n	a	n	n	n	n	n	n	a	n	n	n	a
Bowker	a	n	.	.	n	a	n	n	n	a	a	a	n	a	a	a	a	n	n	n	n	a	n	n	.	n	n	n	n	n	n
Boyd	n	n	a	n	n	a	n	n	n	a	a	a	n	a	a	a	a	n	n	n	a	n	n	a	n	n	n	n	n	n	n
Brace	n	n	a	a	n	.	.	.	a	a	n	a	a	.	.	n	n	.	.	.	.	.	.	.	.	.	n	n	a	a	n	n
Brown, H.	a	n	a	n	n	n	n	a	n	a	a	a	n	a	n	n	a	a	n	a	n	n	a	n	n	n	a	n	n	n	a
Browne, C. E.	n	n	a	a	a	a	n	a	n	a	a	a	n	a	a	a	a	a	n	n	n	n	a	n	n	n	n	n	a	n	n
Burchard	n	.	n	n	a	a	n	n	a	n	n	n	n	a	a	a	.	.	.	n	n	a	n	n	n	n	n	n	n	n	a
Burnett	n	n	n	n	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Burnside	n	n	a	a	n	n	a	a	n	a	n	a	n	a	a	a	a	n	n	n	n	n	a	n	n	n	n	n	n	n	n
Burt	.	.	n	n	a	a	n	.	.	a	n	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Cartter	n	n	a	a	.	.	.	n	n	n	a	n	a	n	a	a	.	.	a	a	a	n	a	a	n	a	a	a	n	n	.
Chamberlain	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Chase, H.	n	a	n	n	a	a	n	n	n	n	a	a	n	a	n	a	a	a	a	a	n	n	a	n	a	a	a	a	n	n	a
Chase, W.	n	n	n	n	a	a	n	n	n	a	n	a	n	a	a	n	a	n	a	a	a	a	a	n	a	a	a	a	n	n	n
Clark	a	n	a	a	n	n	.	.	.	.	.	.	n	a	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Clothier	n	n	a	n	.	.	.	.	.	.	.	.	n	a	n	n	a	a	a	a	n	.	.	a	n	n	a	.	.	n	.
Coombs	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Cooper	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Coxe	n	n	a	a	a	a	a	a	.	a	n	a	n	a	a	a	.	.	a	a	a	a	n	.	.	a	a	a	a	n	n
Crawford	n	n	a	n	a	a	n	n	n	a	n	a	n	a	a	a	a	n	a	a	a	n	a	a	a	a	a	a	n	n	a
Cruson	a	n	n	n	n	n	n	a	n	a	a	n	a	n	a	n	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Dennis	n	n	a	a	n	a	n	n	n	a	n	a	n	a	a	a	n	a	n	n	n	n	a	n	n	n	n	n	n	n	n
Dickinson	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Doty	n	a	a	a	a	a	n	n	n	a	n	a	n	a	a	a	n	n	n	n	n	a	a	n	n	n	n	n	a	n	n
Drake	n	n	a	.	.	.	.	.	n	a	n	n	a	n	a	a	n	n	n	n	n	a	n	n	n	n	n	n	n	n	a
Dunning	n	n	a	a	a	n	n	n	n	a	a	.	.	.	.	.	a	n	n	a	n	.	.	n	n	n	n	.	.	.	.
Edgerton	n	n	a	n	.	.	.	.	.	.	.	.	.	a	a	a	n	a	n	n	n	a	n	n	n	n	n	n	n	n	n
Ellis	n	n	a	n	a	a	a	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Elmore	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	a	n	a	a	a	n	a	a	a	a	a	a	.	a	n
Fitzgerald	n	n	a	a	a	a	a	.	.	.	.	.	.	.	a	a	a	a	.	.	.	.	.	.	a	a	a	n	.	n	a
French	n	n	a	n	a	a	n	n	n	a	a	n	n	a	a	a	.	a	a	a	n	a	a	n	a	a	a	a	.	n	a
Fuller	n	n	a	a	n	n	a	n	n	a	a	n	a	a	a	a	a	a	n	n	n	n	n	n	a	a	a	a	a	.	.
Gibson	n	n	n	n	a	a	n	n	n	n	a	n	n	a	a	a	a	a	n	n	n	a	n	n	n	n	n	n	n	n	n
Giddings	n	n	n	n	a	a	n	n	a	n	a	n	n	a	n	a	n	n	a	a	a	a	a	a	a	a	a	n	n	n	n
Gilmore	.	.	.	n	n	n	n	a	n	a	a	n	a	n	a	a	a	a	n	n	n	a	.	.	n	n	n	n	n	n	n
Goodell	n	n	a	n	a	.	n	n	n	a	n	n	n	a	a	a	a	n	n	n	n	a	n	n	n	n	n	n	n	n	n
Goodrich	.	.	n	a	a	.	.	.	.	.	.	.	n	a	a	a	a	n	n	n	.	.	a	a	n	n	n	n	n	a	.
Goodsell	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Graham	n	n	a	a	a	a	a	a	n	a	a	n	a	n	a	a	a	a	n	n	a	n	a	n	n	n	n	n	a	n	n
Granger	n	n	a	n	.	.	.	.	.	a	n	.	n	a	a	a	n	n	n	a	n	a	n	n	n	n	n	n	n	n	n
Gray	a	n	n	n	a	a	n	a	a	n	a	n	a	n	n	n	a	a	a	a	a	a	n	n	a	a	n	n	.	.	n
Green	.	.	.	.	.	.	.	.	.	.	.	.	n	a	n	a	a	a	a	a	n	n	a	n	a	a	a	n	n	n	n
Hackett	n	n	a	a	n	n	n	a	a	n	a	a	n	a	n	a	a	n	a	a	n	.	.	a	a	a	a	n	a	n	n
Hall, G. B.	n	n	a	n	.	.	.	n	n	n	a	a	n	a	n	a	n	a	n	a	n	a	a	n	n	n	n	a	.	.	n
Hall, J. H.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	n	a	a	a	a	a	n	a	a	n	a	a	a	n	n	.	.
Hammond	n	n	.	.	n	n	n	.	.	a	a	n	a	a	n	n	n	a	a	a	a	n	n	.	.	n	a	a	a	a	n
Harkin	n	n	a	a	n	n	a	a	a	n	a	a	.	.	a	a	a	n	a	a	n	n	a	a	a	a	a	n	n	n	a
Hawes	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Hays	n	n	a	a	n	n	a	a	a	n	a	a	.	.	a	a	a	.	a	a	n	n	a	n	a	a	a	a	n	n	n

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Members.	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62
Hazen	n	n	n	n	a	a	n	n	n	a	a	n	n	a	a	a	a	n	n	n	n	n	a	n	n	n	n	n	n	..	
Hesk	n	n	a	a	a	a	a	n	n	a	a	a	n	a	a	a	a	n	a	a	n	a	a	n	n	n	n	n	n	n	
Hicks	..	n	n	a	a	a	n	a	a	n	n	n	a	n	a	n	a	a	a	a	n	a	n	n	a	a	a	a	n	..	a
Hill	..	..	..	..	..	a	..	n	n	a	n	a	a	n	a	a	n	n	n	a	n	a	a	n	..	n	n	n	n	n	a
Holcombe	n	n	a	a	n	n	a	a	a	n	a	a	n	a	a	a	a	n	a	a	n	n	a	n	a	a	a	n	a	a	a
Huebschmann	n	a	a	a	n	n	n	n	n	a	a	a	n	a	a	a	a	n	n	n	a	a	n	n	n	n	n	n	..	..	
Hunkins	n	a	a	n	a	a	n	n	n	a	a	a	a	n	n	n	a	a	a	a	n	n	a	n	a	a	a	a	..	n	n
Hyer, G.	n	n	a	a	..	..	..	..	..	..	..	..	..	..	..																
Hyer, N. F.	n	n	a	a	..	..	..	..	..	..	..	..	n	a	a	a	n	n	n	n	a	a	..	n	n	n	n	n	n	..	
Inman	..	..	..	..	n	n	n	a	a	n	a	a	n	a	..	a	a	a	a	a	n	n	a	n	a	a	a	a	a	..	
James	n	n	a	n	n	n	n	a	n	n	n	a	n	a	..	a	a	n	..	n	n	n	a	..	n	a	n	n	n	a	
Janssen	n	a	a	a	n	a	a	a	n	a	a	a	n	a	a	a	a	n	a	a	a	a	a	n	a	a	a	a	n	n	n
Jenkins	n	n	a	n	n	n	a	a	n	a	a	a	n	a	a	a	a	a	a	a	a	n	a	a	a	a	a	a	..	a	n
Judd	n	n	a	n	a	a	n	n	n	a	n	a	n	a	a	a	n	n	n	n	a	n	n	n	n	n	..	..	..	..	
Kellogg	n	n	a	n	n	n	n	n	a	n	a	a	a	n	n	n	a	a	n	n	a	a	a	n	a	a	a	n	n	n	n
Kern	n	a	a	a	n	a	..	a	n	a	n	a	n	a	a	a	a	n	a	a	a	a	..	n	..	..	..	..	..	..	
Kinne, A.	n	a	a	a	a	a	..	a	n	a	n	a	n	a	a	a	a	a	n	n	n	n	..	n	n	n	n	n	n	n	
Kinney, J.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Lovell	..	..	..	..	n	n	n	n	a	n	a	a	a	n	n	n	a	a	a	..	n	a	a	a	a	a	a	a	n	n	a
Madden	n	n	a	a	..	..	..	..	..	..	..	..	..	..	a	n	a	a	a	a	n	a	a	a	a	a	a	n	a	n	n
Magone	n	n	a	a	a	a	n	n	a	a	n	a	n	n	a	n	a	a	a	n	n	a	n	n	a	a	a	a	a	n	n
Manahan	n	n	a	a	..	..	..	n	n	n	a	a	n	a	n	n	n	n	a	a	n	..	a	n	n	n	..	..	..	..	..
Meeker	n	n	n	a	..	..	..	..	..	..	..	..	..	..	a	a	n	n	n	n	n	a	n	n	n	n	n	a	a	n	n
Mills	..	..	..	..	n	a	n	a	a	n	a	a	a	n	n	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Moore	n	n	a	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	n	n	n	n	n	a	
Noggle	n	n	a	a	n	n	a	a	n	a	a	a	n	a	a	a	a	n	n	n	n	a	a	n	n	n	n	a	a	n	n
O'Connor	n	n	a	a	a	a	a	n	n	a	n	a	n	a	a	a	..	..	a	n	n	..	a	n	n	n	n	a	n	a	a
Parkinson	n	n	a	a	n	n	a	a	a	n	a	a	n	a	n	a	n	n	n	n	n	a	a	n	n	n	a	n	a	a	n
Parks	n	n	n	n	..	n	n	a	n	..	..	a	..	a	a	a	n	a	n	a	n	a	a	a	n	n	n	n	..	..	..	a
Parsons	n	n	n	a	n	n	..	n	n	a	a	a	a	a	..	..	a	a	a	a	a	a	n	a	a	a	n	n	n	n	
Patch	n	n	a	n	..	..	..	n	a	n	a	a	a	n	n	n	a	a	a	a	n	a	a	..	a	a	a	n	n	n	n
Phelps	..	..	..	..	n	n	..	a	a	n	a	n	.	..	n	n	..	..	a	a	n	n	..	..	..	a	a	..	n	a	..	
Pierce	n	n	a	a	n	n	a	a	n	n	a	a	n	a	a	a	a	n	a	n	a	a	a	n	a	a	a	n	a	n	n
Prentiss	..	..	n	a	a	a	n	n	a	n	a	a	n	a	a	a	n	a	n	n	n	n	..	..	..	n	n	n	a	n	n
Randall	n	n	a	a	a	a	n	n	n	a	a	a	n	a	a	a	a	a	n	n	..	..	a	n	a	n	n	n	n	n	n
Rankin	n	n	a	n	n	n	n	n	n	a	n	a	a	n	a	n	n	n	n	n	n	a	a	n	n	n	n	n	n	a	a
Reed	n	n	a	n	..	..	n	n	..	..	..	a	..	..	..	..	..	..	..	..	..	..	..	..	..	n	n	..	..	..	..
Rogan	n	n	a	a	n	n	a	a	a	n	a	a	n	a	a	a	a	a	n	a	n	n	a	n	n	n	n	..	..	..	..
Ryan	n	n	a	a	n	n	a	a	a	..	..	a	a	n	n	n	a	a	a	a	a	n	a	a	a	a	a	a	a	a	n
Seaver	..	..	a	n	n	a	n	n	n	a	a	a	n	a	a	a	n	n	n	n	a	a	a	n	n	n	n	n	..	n	n
Smith, A. H.	n	a	a	a	n	n	n	n	a	n	a	a	a	n	n	n	a	a	a	a	n	a	a	a	a	a	a	a	n	..	n
Smith, G. B.	n	n	a	n	n	n	a	a	n	a	n	a	n	a	a	a	a	a	a	n	a	a	..	..	a	a	a	..	a	n	n
Smith, J. Y.	n	a	a	a	n	n	a	n	n	n	a	a	a	n	n	..	..	a	a	a	a	a	a	a	a	a	a	a	a	n	..
Smith, S.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	a	n	a	a	n	n	a	n	a	n	n	a	n	n
Smith, W. R.	n	n	a	a	a	a	n	a	n	a	n	a	n	a	a	a	n	a	n	n	n	n	n	n	n	n	n	n	a	n	n
Soper	n	n	a	a	n	n	n	a	a	n	a	a	n	a	n	a	a	a	a	a	a	..	a	a	..	a	a	a	..	n	n
Steele	..	..	..	..	..	..	..	..	..	..	..	..	..	..	a	a	..	..	..	..	..	..	..	..	a	a	a	a	n	n	a
Stockwell	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Strong, Mar.	n	n	a	a	n	n	n	a	a	n	a	a	a	n	n	n	a	a	a	a	n	a	a	n	a	a	a	a	n	n	a
Strong, Moses	n	n	a	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Toland	n	n	a	a	a	a	n	n	n	a	a	a	n	..	a	a	n	n	n	n	n	a	a	n	a	a	a	a	n	..	n	a
Topping	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Turner	..	..	..	..	..	..	..	..	..	..	..	..	..	n	a	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Tweedy	n	n	a	n	n	a	n	n	a	n	a	a	n	a	a	a	a	a	n	n	a	a	a	n	n	n	n	n	n	n	n
Upham	n	n	a	a	a	n	n	a	n	a	a	a	n	a	a	a	n	a	n	a	n	n	a	n	n	n	n	a	n	n	a
Vineyard	a	n	n	a	..	..	..	..	..	..	..	..	n	a	n	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Vliet	n	n	a	n	a	a	n	a	n	a	a	a	n	a	a	a	..	..	n	n	n	a	n	n	n	n	n	n	n	n	a
Wakeley	n	n	a	n	n	n	n	n	n	n	a	a	a	n	n	n	n	a	n	a	n	a	a	n	n	n	n	n	a	n	n
White	n	n	n	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Whiteside	n	n	a	a	..	..	..	..	..	..	..	..	a	a	a	n	n	a	a	a	a	a	n	a	n	a	a	a	a	n	..
Willard	a	n	a	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Wilson	n	n	a	a	a	..	n	n	n	a	n	a	n	a	a	a	n	n	n	n	n	..	n	n	a	a	a	n	..	n	n

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Members.	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93
Agry	n	a	n	n	n	n	n	a	a	a	a	a	a	a	n	a	n	n	a	a	n	a	a	a	n	a	a	n	a	.	.
Atwood	n	a	n	n	n	n	.	a	a	a	a	a	a	n	n	a	n	n	n	a	n	n	a	n	n	a	n	a	n	n	n
Babcock, B.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Babcock, J. M.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Baird	n	a	n	n	n	a	n	a	a	a	a	n	a	.	a	n	a	n	n	a	a	n	n	a	n	n	a	n	a	n	a
Baker	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Barber, H.	n	a	n	n	n	a	n	a	a	a	a	a	n	n	a	a	a	n	a	a	n	a	a	a	n	a	a	a	a	n	a
Barber, J. A.	n	a	a	.	n	n	n	a	a	a	n	n	a	n	a	n	a	n	n	.	.	.	.	a	a	n	n	a	a	a	a
Beall	.	a	n	.	.	a	.	a	a	a	a	.	n	n	n	n	a	n	a	a	n	a	a	a	n	a	a	a	n	a	n
Bell	n	.	n	n	n	n	a	n	a	a	a	a	n	a	n	n	a	n	a	a	n	a	a	a	n	n	a	a	n	a	n
Bennett	.	.	.	.	.	.	.	.	a	a	a	a	n	a	n	n	a	n	n	a	n	a	a	a	n	n	a	a	n	n	a
Berry	n	a	n	n	n	a	n	a	a	a	a	n	a	n	a	n	a	n	a	n	n	a	a	a	.	.	a	a	a	n	n
Bevans	a	n	a	a	n	a	a	a	n	n	a	n	a	n	a	n	a	a	n	n	a	n	n	a	n	a	n	a	a	n	a
Bowen	n	a	n	n	a	n	n	a	a	a	a	a	n	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Bowker	n	a	n	n	.	a	n	a	a	.	.	.	a	n	.	n	n	n	a	a	a	a	a	a	n	a	a	a	n	.	.
Boyd	n	a	n	n	a	n	n	n	a	a	a	a	n	a	n	n	a	n	a	a	n	a	a	a	n	a	a	n	a	n	n
Brace	n	a	.	.	a	n	a	n	a	a	a	a	.	a	n	a	n	a	n	a	n	n	a	a	a	a	a	a	n	a	n	n
Brown, H.	n	a	a	n	a	n	n	a	a	a	a	a	n	.	.	.	.	.	.	.	.	.	.	.	a	.	.	.	.	.	n	n
Browne, C. E.	n	a	n	n	n	a	.	a	n	a	a	a	n	a	n	n	a	n	n	n	a	n	n	a	n	.	.	.	.	.	.	.
Burchard	n	a	n	n	a	a	n	a	a	a	n	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Burnett	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Burnside	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
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Cartter	n	a	n	.	a	a	n	a	a	a	a	a	n	a	a	n	a	n	a	n	n	a	a	a	n	a	a	a	n	n	n
Chamberlain	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Chase, H.	n	a	n	n	a	a	n	a	a	a	a	a	n	a	n	n	a	n	n	a	a	a	a	a	n	n	a	n	a	n	n
Chase, W.	n	a	n	a	a	n	n	a	a	a	n	n	a	n	a	n	n	n	a	a	n	a	a	a	n	n	a	a	a	n	a
Clark	.	.	.	.	.	.	.	n	a	a	a	a	.	.	n	n	.	.	.	n	n	n	a	a	a	n	a	a	n	a	n	.
Clothier	n	a	n	n	a	a	n	n	n	a	n	a	n	n	n	n	a	n	a	a	n	n	n	a	n	n	a	a	n	n	n	.
Coombs	.	.	.	.	.	.	.	.	.	.	.	.	.	.	n	.	.	.	.	n	n	a	a	.	a	n	a	n	a	a	n	a
Cooper	.	.	.	.	.	.	.	.	.	.	.	a	n	a	n	n	a	n	n	n	a	n	n	a	n	n	a	n	a	n	n	n
Coxe	a	n	.	.	a	n	n	.	n	a	n	a	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	a	n	a	n	.
Crawford	n	a	n	n	n	n	n	a	a	n	n	a	n	a	n	n	n	n	a	n	n	n	a	a	n	n	a	n	n	n	n	n
Cruson	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Dennis	n	a	n	n	n	a	n	a	a	n	a	a	n	n	a	n	n	n	a	a	n	a	a	a	n	a	a	a	n	.	.	.
Dickinson	.	.	.	.	.	.	.	.	a	a	a	a	a	n	a	n	a	n	a	a	n	a	a	a	n	.	.	a	a	.	.	n
Doty	n	a	n	n	n	n	n	a	n	n	a	n	a	n	a	n	a	n	a	a	n	a	a	a	n	a	a	n	a	n	a	n
Drake	n	a	n	n	n	n	n	a	a	a	a	a	a	n	a	n	a	n	a	a	n	a	a	a	n	a	a	a	n	a	a	n
Dunning	n	a	n	n	n	n	n	a	n	n	a	.	n	a	n	n	a	n	n	n	a	a	a	a	a	a	n	n	n	n	.	.
Edgerton	n	a	n	n	a	n	n	a	a	a	a	n	n	n	a	n	a	n	n	a	n	a	a	a	n	n	a	a	n	a	n	n
Ellis	.	.	.	.	.	.	.	.	.	.	.	.	a	n	a	n	a	n	n	n	a	n	a	a	n	n	n	n	a	n	n	n
Elmore	n	a	n	n	a	n	a	a	n	n	n	n	n	n	n	n	a	a	n	n	a	n	n	a	n	a	n	a	n	a	n	.
Fitzgerald	a	n	.	.	n	n	n	.	a	a	a	a	n	a	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
French	n	a	n	n	a	a	n	a	n	n	a	n	n	n	a	n	a	n	a	a	a	a	a	a	n	a	a	a	n	a	.	.
Fuller	.	.	.	n	n	n	a	a	a	a	a	a	a	n	a	n	n	a	n	n	n	a	n	a	a	.	.	a	a	a	n	n
Gibson	n	a	n	n	n	a	n	a	a	a	a	a	n	a	n	a	n	a	n	n	n	a	a	a	a	n	n	a	n	a	n	a
Giddings	n	a	n	n	n	a	n	n	a	a	n	.	a	n	a	n	a	n	a	a	a	a	a	a	a	n	n	a	a	n	n	a
Gilmore	n	a	a	a	.	.	.	n	a	a	a	a	n	a	n	a	n	a	a	a	n	n	n	n	a	n	a	a	a	a	n	a
Goodell	n	a	n	n	a	n	.	a	a	a	a	a	n	n	a	n	n	n	a	a	n	a	a	a	n	n	.	a	a	n	n	
Goodrich	a	n	n	n	n	a	n	a	a	n	a	n	a	a	n	a	a	n	a	a	n	n	n	a	n	a	a	a	a	n	n	
Goodsell	.	.	.	.	.	.	.	.	.	.	.	.	.	.	a	a	n	a	n	n	a	n	n	a	n	n	n	n	a	n	.	.
Graham	n	a	n	n	n	a	n	a	n	n	n	a	n	a	n	a	n	n	a	n	n	a	n	a	a	a	.	.	.	.	.	.
Granger	n	a	n	n	n	a	.	a	a	a	a	a	n	a	n	.	.	n	a	a	n	a	a	a	n	a	a	a	a	n	a	n
Gray	n	a	a	a	n	a	n	n	a	n	n	n	a	n	a	a	a	a	n	n	a	n	n	a	n	a	.	.	.	.	.	.
Green	n	a	a	n	n	a	n	a	a	a	a	a	n	a	n	n	a	n	a	n	n	n	a	a	n	a	n	a	n	a	n	n
Hackett	n	a	n	n	n	n	n	a	a	a	a	a	n	a	n	n	.	a	n	n	a	n	n	a	n	a	n	a	n	a	n	n
Hall, G. B.	n	a	n	n	n	n	n	a	a	a	a	a	n	a	.	.	.	.	.	n	a	a	a	a	n	a	.	.	.	.	.	n
Hall, J. H.	n	a	n	n	.	.	a	n	a	a	n	a	a	a	n	a	n	a	n	a	a	n	a	a	a	n	a	.	.	a	n	a
Hammond	n	a	n	n	n	a	n	a	a	a	a	a	a	n	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Harkin	a	n	n	n	n	a	n	a	a	a	a	a	a	a	n	n	n	a	n	n	a	a	a	a	a	n	a	a	a	n	n	n
Hawes	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Hays	n	a	.	.	n	n	a	a	.	.	.	.	a	n	a	n	a	.	.	.	.	n	n	a	n	n	a	n	a	n	n	.

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Members.	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93
Hazen	n	a	n	n	a	n	n	a	a	a	n	a	a	..	n	n	n	n	a	n	n	a	a	a	n	..	a	a	a	n	a
Hesk	n	a	n	n	n	a	n	a	n	a	a	a	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Hicks	a	n	n	a	..	a	a	a	n	a	a	n	a	a	a	n	a	n	n	a	a	a	a	a	n	n	n	a	a	n	a
Hill	n	a	n	n	n	a	n	a	a	a	a	n	n	n	a	n	a	n	a	a	a	a	..	a	a	n	a	a	a	a	n
Holcombe	a	n	a	n	a	n	..	a	a	a	a	a	a	n	n	n	a	a	a	n	a	..	a	a	n	a	n	a	n	n	n
Huebschmann	n	a	n	n	n	n	a	..	..	n	a	a	..	a	n	a	a	a	n	n	n	n	a	a	..	n	a	a	a	a	n	a
Hunkins	n	a	..	n	a	n	..	n	a	a	n	a	n	a	n	n	a	n	n	n	a	n	n	a	n	n	a	a	a	n	a
Hyer, G.	n	a	n	a	n	n	n	n	a	a	n	a	a	a	a	n	a	n	n	n	a	n	n	a	..	n	a	n	a	a	n	n
Hyer, N. F.	..	..	..	..	..	..	..	n	a	a	a	..	a	a	n	n	a	n	..	..	..	a	a	a	n	a	a	a	n	a	a	n
Inman	n	a	n	n	a	n	n	a	a	a	a	a	a	a	n	n	a	n	n	n	a	n	n	a	n	a	a	a	a	n	n
James	a	n	n	n	n	a	n	a	a	a	a	..	a	n	a	n	a	n	a	n	a	n	a	n	a	n	a	a	n	a	a	n
Janssen	n	a	n	n	a	n	n	a	a	a	n	a	n	a	n	n	a	n	a	a	n	a	n	a	a	..	n	a	n	a	n	n
Jenkins	a	n	a	a	a	a	n	a	a	a	a	n	a	n	a	n	a	n	n	n	n	n	n	a	n	n	a	n	n	a	n	n
Judd	..	..	..	..	..	..	..	a	..	..	..	..	a	a	a	n	n	a	n	a	a	a	n	a	a	n	n	n	n	a	n	n
Kellogg	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Kern	n	a	n	n	a	n	..	a	a	a	a	n	n	a	a	a	n	a	a	n	a	a	a	a	..	a	..	..	..	..	..
Kinne, A.	n	a	n	n	a	n	n	a	n	a	n	a	n	n	a	n	a	n	n	n	a	n	n	a	n	n	a	n	a	n	n
Kinney, J.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	a	u	a	n	n
Lovell	n	a	n	a	a	a	n	a	a	..	a	..	n	a	n	..	..	..	a	n	n	a	n	a	a	a	n	n	a	n	n
Madden	a	n	a	a	a	a	n	..	a	n	a	n	a	n	..	..	a	n	n	n	n	..	n	a	a	u	a	n	a	a	n
Magone	n	a	a	n	n	a	..	a	n	n	n	a	n	a	n	n	a	n	n	n	a	n	n	a	a	a	..	..	..	..	..	..
Manahan	..	..	..	..	..	..	..	a	a	a	a	a	..	..	n	a	n	n	n	n	n	a	..	..	..	..	..	..	..	..	..	..
Meeker	n	a	a	n	n	n	a	a	a	n	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Mills	..	..	..	..	..	..	..	n	..	a	a	a	a	n	a	n	n	..	..	a	a	n	a	a	..	..	a	n	n	a	n	n
Moore	a	a	n	n	a	a	..	a	n	a	a	a	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Noggle	n	a	n	n	n	n	n	a	a	a	u	a	n	a	a	n	a	n	a	a	n	a	a	a	n	a	a	n	a	n	a	n
O'Connor	n	a	n	n	n	a	n	a	n	n	u	..	n	a	n	n	a	n	a	a	a	a	a	a	a	n	..	a	n	n	a
Parkinson	a	n	a	a	n	n	n	a	a	a	n	a	n	a	n	n	a	n	n	n	a	n	n	a	n	a	a	..	..	..	..	..
Parks	n	a	n	n	a	n	n	a	a	a	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Parsons	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Patch	n	a	n	n	..	a	n	..	a	a	a	..	..	n	a	a	a	n	a	a	n	a	a	a	a	n	n	a	a	a	n	n
Phelps	n	a	a	a	a	n	..	..	a	n	n	a	n	n	a	..	..	..	n	n	a	n	n	a	a	a	a	a	n	n	n
Pierce	..	..	n	n	a	n	..	a	..	..	..	..	..	n	..	..	..	..	n	a	a	a	n	..	..	a	a	a	a	n	n	n
Prentiss	a	a	n	..	n	a	n	a	a	a	a	n	a	n	a	n	a	n	n	n	n	n	..	a	n	n	a	n	a	n	n
Randall	n	a	..	n	a	n	..	n	a	a	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Rankin	n	a	n	n	n	n	n	a	a	a	n	a	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	a	n	n	n	n
Reed	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Rogan	..	..	..	..	..	..	..	n	a	a	a	n	a	a	n	a	n	a	n	n	a	a	a	a	n	n	a	a	n	a	n
Ryan	a	n	n	n	n	a	n	n	a	n	a	n	u	n	a	n	a	a	n	n	a	n	a	n	a	a	a	..	..	..	..	..
Seaver	n	a	n	n	n	n	n	n	a	a	a	..	n	a	n	n	a	n	a	a	n	a	a	a	a	n	n	a	a	n	n	n
Smith, A. H.	a	a	n	n	..	a	n	a	n	n	a	n	n	n	a	n	a	a	n	n	a	n	u	a	a	a	n	n	a	n	n
Smith, G. B.	a	a	n	n	n	a	n	a	n	n	a	a	a	a	u	n	a	n	n	a	a	a	a	a	n	n	a	a	n	a	n
Smith, J. Y.	..	..	..	..	..	..	..	..	a	a	a	a	a	a	n	a	n	a	n	n	n	n	n	a	a	a	..	..	..	..	..	n
Smith, S.	a	a	n	n	a	a	n	a	a	a	a	a	n	a	n	a	a	a	n	n	a	a	a	a	a	n	n	n	a	n	n
Smith, W. R.	n	a	n	n	n	n	n	a	a	n	a	a	n	a	n	n	n	n	n	a	a	a	a	a	n	a	a	a	n	a	n
Soper	n	a	a	a	n	a	n	a	a	a	a	n	a	..	a	n	..	..	a	n	a	n	n	a	n	a	a	n	a	n	n
Steele	n	a	n	n	..	a	n	a	n	n	n	..	..	..	a	n	a	n	a	a	n	a	a	a	n	a	a	a	n	a	..
Stockwell	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Strong, Mar.	n	a	a	a	a	a	..	a	a	a	a	n	a	n	..	n	a	a	a	n	n	n	a	a	a	n	n	a	n	a	n	a
Strong, Moses	a	n	a	a	n	a	n	n	n	n	a	n	a	n	a	a	a	n	n	a	n	n	n	n	n	a	n	a	n	a	n	n
Toland	a	n	a	n	n	n	n	a	a	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Topping	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Turner	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Tweedy	n	a	..	n	n	n	n	a	a	a	a	n	n	n	a	..	a	a	n	n	a	n	n	a	n	a	a	n	a	a	n	a
Upham	n	a	n	n	..	..	a	a	a	n	..	a	a	n	a	n	a	n	n	..	a	a	a	n	a	n	a	a	n	a	..	n
Vineyard	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Vliet	n	a	n	n	n	a	n	a	a	n	a	a	a	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Wakeley	n	a	n	n	n	a	n	a	a	a	a	n	n	n	a	n	a	n	a	a	n	a	a	..	n	n	a	n	a	n	n	n
White	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Whiteside	a	n	a	a	n	a	n	n	n	a	a	n	..	..	n	a	n	a	a	a	n	n	n	n	a	n	a	a	a	n	n	n
Willard	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	a	a	a	a	n	n	a	n	a	a	n	n	n	n	a	n	n
Wilson	..	..	n	n	a	n	n	a	n	a	n	..	..	n	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..

NUMBER OF ROLL CALL

Members.	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124
Agry	n	a	n	a	n	n	n	n	a	n	a	n	a	n	n	a	n	...	n	a	a	...	a	a	a	a	n	n	a	n	n
Atwood	n	n	n	a	a	n	n	n	a	n	a	n	a	a	n	a	a	a	n	a	a	n	a	a	...	a	n	n	n	n	a
Babcock, B.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Babcock, J. M.	...	...	.	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	a	n	a	a	a	n	n	a	...	...	n	n	n	a
Baird	n	a	n	a	n	n	n	a	a	n	a	n	a	n	n	n	n	n	n	n	a	a	n	n	a	a	n	a	a	a	n
Baker	...	...	...	...	...	...	...	...	...	a	a	n	a	a	n	a	a	...	n	...	...	a	n	a	n	a	a	a	a	a	a
Barber, H.	n	a	n	a	n	n	n	n	a	a	a	n	...	a	n	a	a	a	a	a	a	n	n	a	n	n	a	n	a	a	a
Barber, J. A.	n	a	n	a	a	n	n	n	n	...	a	a	a	...	n	n	a	a	n	...	n	n	a	a	a	a	a	a	a	a	a
Beall	..	n	n	a	n	n	...	...	...	...	a	n	a	n	n	n	a	a	a	n	a	a	n	n	a	a	n	...	n	a	a
Bell	n	n	n	..	a	n	n	n	a	n	a	a	a	a	n	...	n	n	a	a	a	a	n	n	a	n	n	a	n	n	a
Bennett	n	a	n	a	a	n	n	n	a	a	a	n	a	a	n	a	a	a	n	a	a	n	a	a	n	n	a	a	a	n	a
Berry	n	n	a	a	a	n	n	n	a	n	n	a	n	n	a	a	a	a	n	a	a	n	a	a	n	n	n	n	n	n	a
Bevans	...	...	...	...	...	...	...	...	...	...	..	.	...	...	...	...	n	a	n	a	a	n	a	a	a	n	n	n	a	n	...
Bowen	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bowker	n	n	n	a	a	...	...	n	a	n	...	...	a	a	n	n	n	a	n	...	a	a	n	a	n	n	n	a	n	n	a
Boyd	n	n	n	a	n	n	n	n	a	a	a	n	a	n	n	...	...	a	a	n	a	a	n	a	n	a	a	a	a	a	a
Brace	n	a	n	...	..	n	n	n	a	n	a	n	...	a	n	a	a	a	n	a	a	n	a	a	n	a	a	a	a	a	...
Brown, H.	n	n	a	n	a	n	n	n	a	n	a	a	a	a	a	a	n	a	a	a	a	a	n	n	a	...	...	...	...	...	...
Browne, C. E.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	a	a	a	a	a	a	a	n	a	a	a	a
Burchard	...	...	...	...	...	...	...	...	...	n	n	n	n	n	...	n	n	n	a	n	a	a	n	n	a	a	a	n	a	a	a
Burnett	...	...	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burnside	...	...	...	...	...	...	...	...	...	n	a	a	a	n	n	a	n	a	n	a	a	n	a	a	n	a	a	a	n	n	a
Burt	...	...	...	...	...	...	...	...	...	n	n	...	n	n	n	n	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cartter	a	n	n	n	a	n	n	...	a	a	a	a	a	a	n	n	n	a	a	n	a	n	a	a	a	n	n	a	a	a	a
Chamberlain	...	...	...	...	...	...	...	...	...	...	...	.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chase, H.	n	n	a	a	n	n	n	n	a	...	...	...	...	...	...	...	...	...	n	...	...	...	a	...	...	...	...	...	...	...	...
Chase, W.	a	n	a	a	a	a	n	a	a	n	a	a	a	n	n	a	n	n	a	a	a	a	n	n	a	n	a	a	a	a	a
Clark	..	a	..	...	...	...	...	...	...	n	a	a	a	n	n	...	n	n	a	a	a	a	n	n	a	...	a	a	a	a	a
Clothier	n	n	a	a	n	n	n	n	a	n	a	n	a	a	n	n	a	n	a	n	n	n	n	n	a	n	a	a	a	a	a
Coombs	..	n	..	a	a	n	n	n	...	a	a	...	a	...	...	...	n	...	...	...	...	a	...	...	...	...	...	...	...	...	...
Cooper	a	n	n	n	n	n	n	n	n	a	a	n	n	a	n	n	a	...	a	n	n	n	a	a	a	n	a	a	...	a	a
Coxe	n	a	n	a	n	n	n	n	a	a	a	n	a	a	n	n	a	a	n	a	n	n	a	a	n	n	a	n	a	a	n
Crawford	n	a	a	a	a	n	n	n	n	a	n	a	a	a	n	a	a	a	a	a	n	a	n	n	a	a	a	...	a	a	a
Cruson	...	...	...	...	...	...	...	...	...	a	a	n	a	a	n	a	a	a	n	a	a	n	a	a	a	a	a	a	a	a	a
Dennis	n	n	n	a	a	n	n	n	a	n	...	n	a	n	n	n	n	a	a	a	a	n	n	n	a	...	a	a	a	a	a
Dickinson	n	n	n	a	a	n	n	n	a	a	a	n	a	a	n	a	a	a	n	a	a	n	a	a	n	n	a	...	n	n	a
Doty	..	n	a	a	a	a	n	a	a	a	a	a	a	n	n	n	n	n	a	n	a	a	n	n	a	n	a	n	n	n	a
Drake	...	...	...	...	...	...	n	n	a	n	a	n	a	n	n	a	n	n	a	n	a	a	n	n	a	a	a	a	n	n	a
Dunning	n	a	a	...	...	...	...	...	...	a	a	n	...	...	...	a	a	a	a	a	a	n	a	a	a	a	n	n	a	a	a
Edgerton	n	n	n	a	a	n	...	n	a	n	a	n	a	a	n	u	u	n	a	n	a	a	n	n	a	a	a	a	a	a	a
Ellis	a	n	a	a	a	a	n	n	a	a	n	...	...	a	n	n	n	a	n	n	n	n	n	n	a	n	a	n	a	a	a
Elmore	n	n	a	a	a	n	n	n	n	n	a	a	a	n	n	a	n	a	a	n	n	n	n	n	a	a	a	...	a	n	a
Fitzgerald	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
French	n	n	a	n	n	...	...	n	a	a	a	n	...	a	n	n	a	a	a	n	n	n	n	...	n	n	n	a	n	n	a
Fuller	n	n	n	..	a	..	n	n	a	n	a	...	...	...	...	...	n	a	a	a	a	n	a	a	a	a	n	n	n	n	a
Gibson	n	n	n	a	a	n	n	a	n	n	a	a	a	n	n	n	n	n	a	n	a	a	n	n	a	a	a	a	a	a	n
Giddings	n	n	n	a	a	n	n	n	a	n	a	n	a	n	n	a	n	n	a	a	a	a	n	n	a	a	a	a	a	a	n
Gilmore	...	..	n	a	a	n	n	n	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	...	...	...	...
Goodell	a	n	n	a	a	n	n	a	...	n	a	a	n	n	n	n	n	n	a	a	a	a	n	n	a	a	...	a	a	a	a
Goodrich	n	a	a	a	a	a	...	...	a	n	a	a	a	n	n	a	n	n	a	a	a	a	n	n	a	...	...	a	n	n	a
Goodsell	n	a	a	a	a	n	n	n	a	a	a	n	a	a	n	a	n	...	n	a	a	n	a	a	n	n	n	n	a	n	a
Graham	...	...	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	a	a	a	a
Granger	..	n	n	n	a	n	n	n	...	n	a	n	a	a	n	n	a	a	a	a	n	a	n	a	a	a	a	a	a	a	a
Gray	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Green	n	n	n	a	a	a	n	n	a	n	a	a	a	a	n	a	a	...	...	a	a	...	n	n	a	a	a	a	a	a	a
Hackett	n	a	n	a	a	n	n	n	a	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	n	n	a	a	a
Hall, G. B.	n	n	n	a	a	n	n	a	a	n	a	a	a	n	n	n	n	...	n	a	a	n	a	a	a	n	n	a	a	n	a
Hall, J. H.	n	n	n	..	a	n	n	n	a	a	n	n	a	a	n	n	a	a	n	n	a	n	a	a	n	n	n	a	a	a	a
Hammond	...	...	...	...	...	...	n	n	n	a	a	n	a	a	n	a	n	a	n	a	a	n	a	a	n	n	n	n	a	n	a
Harkin	a	a	n	a	a	a	n	n	a	n	n	n	n	a	n	a	a	a	n	a	a	n	a	a	n	n	a	n	a	n	a
Hawes	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hays	n	a	a	a	..	..	n	n	n	a	a	a	a	n	n	...	n	a	n	a	a	a	a	a	n	...	a	n	a	a	a

NUMBER OF ROLL CALL

Members.	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124
Hazen	n	n	n	a	a	n	n	a	a	n	a	a	a	n	n	...	...	n	a	...	a	a	n	n	a	...	...	n	...	...	...
Hesk	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	n	a	n	n	a	a	n	a	n	a	a	...	a	a	a
Hicks	a	a	n	a	a	n	a	n	n	n	a	a	a	a	a	a	a	a	n	a	a	n	a	a	a	a	a	a	a	n	a
Hill	n	n	n	a	a	n	n	a	a	...	...	...	...	...	...	a	n	...	a	n	a	a	n	n	a	a	a	a	n	n	a
Holcombe	n	a	n	a	a	n	...	n	a	a	a	a	n	n	n	a	n	n	n	a	a	n	n	n	a	a	n	n	a	n	a
Huebschmann	n	n	n	a	n	n	n	n	a	n	a	n	a	a	n	n	a	a	a	a	...	a	a	a	a	n	a	a	a	a	n
Hunkins	n	n	n	...	...	n	n	n	n	a	a	n	a	a	n	n	a	a	a	n	n	n	a	a	a	n	n	n	a	a	a
Hyer, G.	n	n	n	a	a	n	n	n	a	a	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hyer, N. F.	n	n	a	a	a	n	n	...	a	...	...	...	...	...	...	n	n	...	a	...	...	a	n	n	a	a	a	a	a	a	a
Inman	n	a	n	n	a	n	n	n	a	n	n	n	n	n	n	a	n	a	n	a	a	n	a	a	a	...	n	n	a	a	a
James	n	a	n	n	n	n	n	a	a	n	a	n	a	a	n	a	a	n	n	a	a	n	a	a	...	n	n	n	a	n	a
Janssen	n	a	n	a	a	n	n	n	a	n	a	n	a	n	n	a	n	a	a	a	a	a	n	n	a	a	a	n	a	a	a
Jenkins	a	a	...	a	a	a	n	n	a	n	a	a	a	n	n	a	n	n	n	a	a	n	a	a	n	n	a	n	n	n	a
Judd	n	n	n	a	n	n	n	n	a	a	a	n	a	n	n	n	n	n	a	n	a	a	n	n	a	a	a	a	n	a	a
Kellogg	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	...	a	n	a	a	n	a	a	n	a	a	a	n	...	...
Kern	...	...	...	...	...	...	n	n	a	...	...	...	...	...	...	...	...	...	...	a	a	a	n	n	a	...	...	...	...	...	...
Kinne, A.	n	n	n	n	n	n	n	a	n	n	n	a	n	n	n	a	a	a	n	a	a	n	n	a	n	n	a	a	a	a	a
Kinney, J.	n	a	n	a	a	n	n	n	a	n	a	n	a	n	n	n	a	a	n	a	a	n	a	a	n	n	a	a	a	a	a
Lovell	n	n	n	...	...	n	n	n	a	a	a	n	a	a	n	a	a	a	n	a	a	n	a	a	n	n	a	a	a	a	a
Madden	a	a	n	a	a	n	n	n	n	a	a	n	a	a	n	a	a	a	n	a	a	n	a	a	n	n	n	n	a	n	a
Magone	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	n	n	a	a	n	a	n	n	a	n	a	a	a	a	a
Manahan	...	...	...	...	...	...	n	n	...	a	a	n	a	...	...	...	...	...	...	a	a	...	a	a	...	a	a	n	a	n	a
Meeker	...	...	...	...	...	...	...	...	...	a	...	n	a	...	n	a	n	a	n	a	a	a	n	a	...	a	n	a	n	n	a
Mills	n	n	n	a	n	n	n	n	a	...	...	n	...	a	n	...	...	...	...	...	...	...	...	...	...	...	n	n	a	n	n	a
Moore	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	...	...	a	n	a	a	n	...	n	n	n	a	a	a	a
Noggle	n	a	n	a	a	n	n	n	a	...	...	...	...	...	...	...	n	...	...	...	...	...	...	...	...	...	...	a	...	...	...
O'Connor	...	...	n	a	a	a	a	n	a	...	a	...	a	n	n	n	...	a	a	n	n	a	n	n	a	n	a	...	n	a	n
Parkinson	...	...	...	...	...	...	...	...	...	a	a	n	a	a	n	a	n	a	n	a	a	n	a	a	a	n	n	n	n	n	a
Parks	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	a	...	a	n	n	a	n	n	a	n	n	n	n	n	a
Parsons	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	a	a	n	a	a	n	a	a	n	n	n	n	a	a	a
Patch	a	n	n	a	n	n	...	...	...	a	a	n	a	...	...	...	...	...	...	a	a	a	n	a	n	a	a	a	a	a	a
Phelps	a	n	n	n	a	...	n	n	n	a	a	a	...	...	a	...	a	a	a	a	...	...	...	...	...	...	...	...	...	...	...
Pierce	...	a	n	a	a	...	...	...	a	...	...	a	...	a	n	...	...	a	n	...	...	n	a	a	a	...	n	n	a	n	a
Prentiss	...	n	n	a	n	n	...	n	a	a	a	n	a	...	n	n	...	...	a	n	a	...	n	n	a	n	a	a	n	n	a
Randall	...	...	...	...	...	...	...	...	...	a	a	n	a	n	n	n	a	...	a	n	n	a	n	n	a	a	a	a	n	n	a
Rankin	n	n	n	...	...	...	n	n	a	a	a	n	a	a	n	n	a	a	a	n	a	a	n	n	a	...	...	...	...	...	...
Reed	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	n	...	a	n	...	a	n	n	a	...	...	n	a	a	a
Rogan	n	n	n	a	a	n	n	n	a	a	a	n	a	a	n	a	a	a	n	a	a	n	a	a	a	a	a	n	n	n	n
Ryan	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	n	a	n	a	a	...	a	a	n	n	n	n	a	n	a
Seaver	n	...	n	a	a	n	n	n	a	n	a	a	a	n	n	n	n	a	n	n	a	a	n	n	a	a	n	a	n	a	a
Smith, A. H.	n	a	n	...	...	n	n	n	n	n	a	n	...	n	n	a	n	a	n	a	a	a	n	n	a	n	n	a	n	a	a
Smith, G. B.	a	n	a	a	a	n	n	n	a	...	a	a	a	...	...	a	n	n	a	a	a	n	n	a	a	n	n	a	n	n	a
Smith, J. Y	n	n	n	a	n	...	n	n	a	...	...	n	a	n	n	...	n	...	n	a	a	...	a	a	n	...	...	...	...	n	a
Smith, S.	...	n	a	a	a	n	n	n	a	n	a	a	a	n	n	a	a	a	n	a	a	n	a	a	n	a	n	n	a	n	a
Smith, W. R.	n	a	n	a	a	a	n	a	a	n	a	n	a	n	n	a	n	a	n	a	a	a	n	n	a	a	n	n	n	n	a
Soper	n	n	n	a	a	n	n	n	a	n	a	a	a	a	n	a	n	n	a	a	a	a	n	n	a	a	a	n	a	a	a
Steele	...	...	...	n	a	a	a	...	...	a	a	a	...	n	n	n	n	...	...	...	...	...	a	n	n	a	u	...	n	n	a
Stockwell	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Strong, Mar.	a	a	n	a	n	n	n	n	a	a	n	n	n	a	n	a	a	a	n	a	a	n	a	a	n	n	a	a	a	a	a
Strong, Moses	n	a	n	n	n	a	n	n	a	a	a	n	a	a	n	a	a	a	n	a	a	n	a	a	n	a	n	n	a	n	a
Toland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	n	a	a	a	a	a	n	n	a	a	a	n	n	a	a
Topping	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Turner	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tweedy	n	n	n	a	n	n	n	n	a	n	a	n	a	n	...	n	n	a	a	n	a	n	n	a	a	n	n	n	a	n	a
Upham	...	a	n	a	n	n	n	n	a	a	a	n	a	n	...	n	n	a	a	n	a	a	n	n	...	n	a	a	a	a	a
Vineyard	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	n	n	n	a
Vliet	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	a	a	a	n	a
Wakeley	a	n	n	a	a	n	n	n	a	a	a	n	a	a	n	a	a	a	n	a	...	n	a	a	n	n	a	a	a	a	a
White	...	...	...	...	...	...	...	...	...	a	a	a	a	a	n	a	a	a	n	a	a	n	a	a	n	a	a	a	n	n	a
Whiteside	a	n	n	...	a	...	n	n	a	a	a	a	a	a	n	a	a	a	n	a	a	n	a	a	n	n	a	...	a	n	a
Willard	n	a	a	a	a	a	n	n	a	a	n	a	n	a	n	a	a	a	n	a	a	n	a	a	n	n	n	n	a	n	a
Wilson	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	n	a	a	a	a	a	n	n	...	n	a	n	a	a	a

NUMBER OF ROLL CALL

Members	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155
Agry	a	n	a	...	a	n	...	...	n	...		...	n	a	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Atwood	a	n	a	a	a	n	a	a	n	n	n	a	n	n	n	a	n	a	a	a	a	a	n	a	a	n	a	a	a	n	n
Babcock, B.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Babcock, J. M.	a	n	a	...	n	n	n	a	...	a	a	a	...	...	...	...	...	...	...	a	a	a	a	n	...	n	n	n	n	n	n
Baird	a	n	a	n	a	a	n	n	n	a	n	n	n	a	n	a	n	a	a	n	n	n	n	a	n	a	a	n	n	n	a
Baker	a	a	a	a	n	a	a	a	n	...	...	...	a	n	n	a	a	n	a	a	a	n	a	n	a	n	a	n	a	n	n
Barber, H.	a	n	...	a	n	n	a	a	n	a	n	n	n	n	n	a	n	a	a	a	a	...	a	a	n	a	a	a	n	n	a
Barber, J. A.	a	n	n	n	n	a	n	n	...	n	..	...	n	n	n	a	n	n	n	n	a	a	a	a	n	a	...	n	...	...	...
Beall	a	n	a	...	n	a	n	a	n	a	n	a	n	n	n	a	...	n	n	...	...	n	n	n	n	n	...	...	a	n	n
Bell	a	a	n	a	n	a	a	...	a	n	a	n	a	n	a	a	a	n	a	a	a	n	a	n	n	n	n	a	a	n	n
Bennett	a	a	n	a	a	n	n	n	a	n	n	n	n	n	n	a	a	n	a	a	a	n	a	...	a	n	a	a	n	...	a
Berry	a	n	n	a	a	n	a	...	n	a	a	a	n	a	n	n	n	a	a	a	...	a	a	n	a	a	n	a	n	n	n
Bevans	n	a	n	a	a	n	a	a	n	...	...	...	n	a	n	n	n	a	a	a	a	a	a	a	a	n	a	a	n	n	a
Bowen	...	...	...	a	a	a	a	a	a	a	n	n	n	n	a	n	a	a	a	a	n	a	...	a	n	a	a	n	n	a	
Bowker	a	n	a	a	n	a	a	a	n	...	...	...	a	n	n	a	...	n	a	n	...	n	a	n	n	a	n	n	a	n	n
Boyd	a	a	a	a	n	a	a	a	n	a	a	n	a	n	n	a	a	n	a	a	a	n	a	a	n	...	n	n	a	n	n
Brace	...	...	...	a	a	n	a	...	n	n	n	a	n	a	n	a	n	a	a	a	a	n	a	a	a	a	a	a	n	...	a
Brown, H.	...	...	...	...	...	...	...	...	...	...	...	...	n	n	n	a	n	a	a	n	n	n	a	n	a	n	n	a	n	n	a
Browne, C. E.	a	n	a	a	n	a	a	a	a	n	n	n	a	n	n	n	n	a	a	n	n	n	a	n	n	n	n	n	a	n	n
Burchard	a	a	n	n	n	a	a	n	a	n	a	n	a	a	n	a	a	n	n	n	n	n	a	n	n	n	n	a	a	...	n
Burnett	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burnside	a	n	n	a	a	n	a	a	n	a	n	a	n	n	n	n	n	a	a	a	a	n	a	a	n	a	a	a	n	n	a
Burt	...	...	...	...	...	...	...	...	...	...	...	...	a	a	a	a	a	a	n	n	n	n	a	n	n	n	n	n	n	...	a
Cartter	a	n	a	a	a	a	n	n	a	n	n	a	n	n	n	a	n	a	a	a	a	a	n	n	n	n	n	a	n	n	n
Chamberlain	...	...	...	a	n	n	n	n	a	a	n	n	n	n	n	a	a	a	a	n	n	n	a	a	n	a	n	a	n	a	a
Chase, H.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chase, W.	a	n	a	a	a	a	n	n	a	n	n	n	n	n	n	a	n	a	a	a	a	a	n	a	n	n	n	n	a	n	n
Clark	a	a	a	...	...	...	...	...	...	...	...	...	...	...	...	a	n	a	a	...	...	...	...	...	...	...	a	...	n	...	a
Clothier	n	a	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	a	n	...	a
Coombs	...	...	...	...	...	...	...	...	...	...	...	...	a	n	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	a
Cooper	a	a	a	a	n	a	...	a	a	a	n	n	a	n	n	a	n	a	a	a	a	n	a	n	n	n	n	n	a	n	n
Coxe	a	n	...	...	a	a	n	a	n	a	n	n	n	n	...	...	a	n	n	n	n	n	a	n	a	a	a	n	n	a
Crawford	a	n	a	a	n	a	n	a	n	n	n	n	n	n	n	n	n	a	a	a	a	a	a	n	n	n	a	a	a	n	n
Cruson	n	a	n	a	n	a	a	a	a	n	n	n	n	a	n	n	n	a	a	a	a	a	n	a	n	a	n	n	n	a	n
Dennis	a	n	a	a	n	n	a	n	a	n	n	n	a	n	n	a	a	n	a	a	a	n	a	n	n	n	n	n	a	n	n
Dickinson	a	a	a	a	a	n	a	a	a	n	n	n	a	n	n	n	n	a	a	a	a	n	a	n	a	n	a	a	a	n	n
Doty	n	a	n	...	n	a	n	a	a	n	a	n	a	n	n	a	a	a	a	a	a	n	a	n	n	n	n	a	a	n	n
Drake	a	n	a	n	a	a	...	a	n	a	a	n	a	n	n	a	a	a	a	n	a	n	a	a	n	n	n	n	a	n	n
Dunning	a	n	a	a	a	n	a	...	..	...	...	...	...	...	...	n	...	...	...	...	...	...	...	...	...	...	...	a	n	n	a
Edgerton	n	a	n	n	n	a	n	...	...	...	...	...	n	a	n	n	n	a	a	a	a	...	...	n	n	a	n	a	a	n	n
Ellis	n	n	a	a	n	a	n	n	a	n	n	n	a	n	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Elmore	n	a	n	a	a	n	a	a	a	n	n	a	n	a	n	n	n	a	n	n	n	...	n	n	n	n	a	a	a	n	n
Fitzgerald	...	...	...	a	n	a	a	a	n	a	n	a	a	a	n	n	n	...	...	a	n	a	n	a	a	a	n	a	n	n	a
French	a	n	a	n	n	a	n	n	a	n	.	..	a	a	a	a	a	n	a	a	a	a	n	n	n	n	...	...	...	...	...
Fuller	...	...	...	a	a	a	a	n	...	n	n	a	n	n	n	n	a	a	a	a	n	n	a	n	a	n	n	...	...	...	...
Gibson	a	n	a	n	a	a	n	n	a	n	a	n	a	n	...	a	n	a	a	a	a	n	a	n	n	n	n	a	a	n	n
Giddings	a	n	n	n	a	a	n	n	n	n	n	n	n	n	n	a	n	a	a	n	n	n	a	n	a	n	n	a	a	n	n
Gilmore	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	n	a	a	n	n	n	a	n	a	n	n	a	a	n	n
Goodell	a	n	a	a	a	a	n	n	n	n	a	n	n	n	n	a	n	...	a	a	a	a	a	n	a	...	a	a	a	n	n
Goodrich	a	a	n	a	a	n	a	a	a	n	a	a	n	n	n	a	n	a	a	a	a	n	a	n	a	a	n	a	a	n	a
Goodsell	a	...	a	a	a	n	n	a	a	a	...	...	n	a	n	a	n	a	a	n	n	...	...	...	...	a	a	a	n	n	a
Graham	n	a	a	a	a	a	n	a	n	a	a	a	a	a	n	n	n	a	a	...	...	...	a	a	n	a	a	n	a	a	n	n
Granger	a	a	a	a	a	n	a	n	a	n	n	n	...	n	n	a	a	n	a	...	...	...	...	...	n	n	n	...	a	n	n	n
Gray	...	...	...	...	...	...	...	...	...	n	n	n	n	a	...	a	a	n	a	n	n	n	a	n	a	n	n	n	n	n	a
Green	a	n	a	a	a	n	a	a	n	a	a	a	n	n	n	a	n	...	a	...	...	...	...	...	...	...	...	...	...	...	...
Hackett	n	a	a	a	n	a	a	n	n	a	n	n	a	a	n	n	n	a	a	n	n	a	a	n	n	a	n	a	a	a	n	n
Hall, G. B.	n	a	n	a	a	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hall, J. H.	a	n	a	a	a	a	n	a	a	n	...	...	n	n	n	a	n	a	a	a	a	a	a	n	n	n	n	n	a	...	n
Hammond	n	a	a	a	a	n	n	a	n	a	...	a	n	n	n	n	n	a	a	a	a	n	a	a	n	a	n	a	a	a	n
Harkin	a	a	a	a	a	n	a	a	...	...	n	a	n	n	n	a	n	a	a	a	a	a	a	a	n	a	a	a	n	n	a
Hawes	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hays	...	...	...	...	a	n	a	n	n	n	n	a	n	n	...	...	...	...	...	a	n	a	a	...	a	n	a	a	n	...	a

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Members	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155
Hazen	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hesk	a	n	a	a	a	a	...	n	...	...	n	n	a	n	n	n	n	a	a	a	a	a	a	n	a	a	...	a	a	n	n
Hicks	n	n	n	n	a	a	n	a	a	n	a	n	n	a	n	n	a	a	n	a	a	n	a	...	a	n	...	a	a	n	...	a
Hill	a	a	a	n	a	...	n	n	a	a	a	n	a	n	n	a	a	a	a	a	a	n	a	n	n	n	n	a	a	n	n
Holcombe	a	a	n	a	a	n	a	a	a	n	n	a	n	a	n	...	...	...	...	a	a	n	a	a	n	a	...	a	n	...	a
Huebschmann	a	n	n	a	n	a	n	n	a	n	n	n	a	n	a	a	a	n	n	a	a	n	..	n	n	n	n	a	a	...	...
Hunkins	n	a	a	a	n	a	...	n	a	n	n	...	a	n	n	n	a	...	a	n	a	n	n	n	n	n	n	a	a	...	n
Hyer, G.	...	...	...	a	a	n	n	n	n	a	...	...	...	...	...	n	n	a	a	n	n	n	...	n	a	n	a	n	a	n	n
Hyer, N. F.	a	a	n	a	a	a	n	n	n	a	a	n	n	n	n	a	a	a	a	a	a	n	a	n	n	n	...	...	...	...	...
Inman	n	a	...	a	a	n	a	a	n	a	a	a	n	a	n	n	n	a	a	n	n	n	a	a	n	a	a	a	n	n	a
James	a	a	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Janssen	a	n	a	a	n	a	n	n	n	n	n	n	a	n	n	n	n	a	a	a	a	n	a	n	n	n	...	a	n	n	n
Jenkins	n	a	n	a	a	n	a	...	...	...	...	a	n	n	n	n	n	a	a	...	n	n	a	a	a	a	a	a	n	...	a
Judd	a	a	a	a	n	a	n	a	n	a	n	n	...	n	n	a	a	n	a	a	a	...	...	...	...	...	n	n	n	n	a
Kellogg	...	a	a	a	a	n	n	a	n	a	a	a	n	n	n	...	a	a	a	a	a	n	a	a	n	a	a	a	a	n	n
Kern	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Kinne, A	a	a	a	a	n	a	..	n	a	n	a	n	a	n	n	a	n	a	a	n	n	n	a	n	n	n	a	n	a	n	n
Kinney, J.	a	a	a	a	a	n	n	a	n	a	a	n	a	a	n	n	a	a	a	a	a	n	a	n	n	a	n	...	n	n	n
Lovell	a	a	a	a	a	n	a	a	n	n	n	a	n	n	n	a	n	a	a	a	a	a	a	n	a	a	a	a	a	n	n
Madden	a	a	a	a	a	n	a	a	n	n	n	a	n	a	n	a	n	a	a	a	a	a	a	n	a	a	a	a	n	n	a
Magone	a	n	n	...	n	a	n	n	a	n	n	a	n	n	n	a	n	a	a	a	n	n	a	n	n	n	n	n	a	n	a
Manahan	a	n	a	a	n	n	n	n	a	n	n	a	n	n	...	a	n	a	a	a	n	...	...	...	n	n	...	a	a	...	a
Meeker	n	n	a	a	a	a	...	a	n	a	n	n	n	a	n	a	a	a	a	a	a	n	a	n	n	n	n	a	n	n	a
Mills	a	a	a	a	n	a	n	n	n	a	a	a	a	a	n	n	a	a	a	a	a	...	..	...	...	...	n	a	a	n	n
Moore	a	n	a	n	n	a	n	n	a	n	a	n	a	n	a	a	a	a	a	n	n	a	a	n	n	n	n	a	n	n	n
Noggle	...	...	...	...	a	n	a	n	L	a	a	n	a	n	a	n	n	a	a	a	a	n	a	a	a	a	n	a	a	n	n
O'Connor	a	n	n	...	n	a	n	n	n	...	...	n	a	n	a	a	a	n	n	a	a	n	n	a	a	n	n	n	n	a	n
Parkinson	a	a	n	a	a	n	a	a	n	a	a	n	n	a	n	...	...	...	...	a	a	n	a	a	n	a	a	a	n	n	a
Parks	n	a	a	n	n	a	...	n	n	...	n	n	a	a	...	n	a	a	a	a	a	a	a	...	n	a	n	n	n	n	n
Parsons	a	n	a	a	a	n	n	n	a	n	a	n	n	n	n	n	a	n	a	a	a	n	a	a	a	n	a	a	a	a	n	n
Patch	a	n	a	a	a	n	a	a	n	a	n	a	n	n	n	a	n	a	a	a	a	a	a	n	n	n	a	n	a	n	n
Phelps	...	...	...	...	a	n	a	n	a	n	n	a	n	n	n	a	n	a	...	...	n	...	a	n	a	n	...	...	...	n	a
Pierce	n	a	n	...	a	n	a	n	n	a	a	a	n	n	n	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Prentiss	a	a	n	...	n	a	n	...	n	a	...	...	a	n	n	n	n	...	...	...	...	...	...	...	...	...	n	n	a	n	n
Randall	a	a	a	n	n	a	n	n	...	...	...	...	n	a	a	a	a	n	a	a	a	n	n	n	n	a	n	n	a	a	n
Rankin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Reed	a	a	n	a	n	a	...	...	...	...	n	n	n	a	...	n	a	...	...	a	a	a	n	a	n	a	n	a	a	n	n
Rogan	n	a	n	a	a	n	a	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	...	a	n	n	n	a
Ryan	n	a	a	a	a	n	a	a	n	a	n	a	n	a	n	n	n	a	a	a	n	a	a	a	a	a	a	a	n	n	a
Seaver	a	n	a	n	n	a	n	n	n	a	a	n	a	a	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Smith, A. H.	n	a	a	a	a	n	a	a	n	a	n	a	n	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	a	n	a
Smith, G. B.	a	a	a	a	a	n	n	a	a	n	a	n	n	...	...	n	n	a	...	...	...	n	n	a	a	n	...	n	n	...	a
Smith, J. Y.	a	a	n	a	a	n	n	...	...	...	...	...	n	...	...	a	a	n	a	n	n	...	...	...	...	...	a	a	n	n	a
Smith, S.	a	a	n	a	a	n	n	n	n	a	a	a	n	a	n	n	n	a	a	n	n	n	a	n	n	a	a	a	a	n	n
Smith, W. R.	n	n	a	a	a	n	a	a	n	a	n	n	n	a	n	n	a	a	a	n	n	n	a	n	n	a	n	a	n	n	a
Soper	a	a	a	a	a	n	n	n	a	n	n	a	n	n	n	a	n	a	a	a	a	a	a	n	...	...	a	...	n	n	a
Steele	a	a	a	n	n	a	...	n	...	...	...	...	n	n	n	a	...	n	a	n	n	n	n	n	a	n	n	a	a	n	n
Stockwell	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Strong, Mar.	a	n	a	a	a	n	a	n	n	n	n	a	n	n	n	a	n	a	a	a	a	a	a	n	n	n	a	n	n	n	a
Strong, Moses	a	a	a	a	a	n	a	...	...	...	...	...	...	...	...	...	...	...	...	n	n	...	...	...	...	a	a	a	a	n	a
Toland	n	n	a	a	n	a	a	a	n	n	n	...	n	n	n	n	a	n	a	n	n	n	a	n	n	n	n	a	n	n	a
Topping	...	...	...	...	...	...	...	...	...	...	...	..	...	...	...	a	a	n	a	a	a	n	a	n	n	n	n	n	a	n	n
Turner	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	a	a	...	n
Tweedy	n	a	a	n	n	a	a	n	n	a	n	n	n	a	n	n	n	a	a	n	n	a	a	a	n	a	n	a	a	n	n
Upham	a	a	a	a	n	a	a	a	n	a	n	...	a	n	n	a	a	a	...	n	n	n	a	a	a	a	a	n	n	a	a
Vineyard	n	a	n	a	...	n	a	a	a	...	...	...	n	a	...	n	n	n	...	a	a	...	...	...	...	...	a	a	n	n	a
Vliet	a	n	a	n	n	a	...	a	n	a	n	n	a	a	n	n	a	a	a	n	n	n	a	a	n	a	n	n	n	n	n
Wakeley	a	...	a	a	a	n	n	a	n	a	a	n	n	a	n	a	n	a	a	a	a	n	a	a	n	a	a	n	a	a	n
White	a	a	n	a	a	n	a	a	n	n	n	a	n	n	n	a	n	a	...	a	a	n	a	a	n	a	a	a	n	...	a
Whiteside	a	a	a	a	a	n	n	...	n	a	a	n	n	n	n	...	n	a	a	a	a	...	...	...	...	...	a	n	n	...	a
Willard	a	n	a	a	a	n	a	n	n	a	a	a	n	a	n	n	n	a	a	a	a	n	a	a	a	a	a	a	n	n	a
Wilson	a	a	a	a	n	a	a	n	n	n	...	...	a	n	n	n	n	n	a	n	n	n	a	a	n	n	n	a	a	a	n

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Agry	n	...	...	...	...	...	...	...	...	...	...	..	...	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Atwood	...	n	n	a	a	n	a	n	n	a	...	...	a	a	a	n	n	a	a	n	a	a	a	a	n	a	a	a	a	a	a
Babcock, B.	...	...	...	...	...	...	...	...	...	...	...	..	...	...	..	...	...	...	...	...	...	...	...	...	n	...	...	...	...	...	...
Babcock, J. M.	n	a	a	a	n	n	a	n	n	...	...	...	...	...	..	...	...	...	...	...	...	a	a	n	n	...	...	...	...	n	n
Baird	n	n	a	a	a	n	a	n	n	a	n	n	n	n	n	a	a	n	n	n	a	a	n	a	n	n	n	a	n	a	a
Baker	n	n	a	a	a	n	a	n	...	...	n	n	n	a	a	a	n	a	a	n	n	n	n	a	n	a	a	a	a	n	n
Barber, H.	n	n	n	a	a	a	n	a	a	n	a	n	a	a	a	n	n	...	a	n	n	n	n	a	n	n	a	a	a	n	n
Barber, J. A.	...	...	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Beall	n	n	n	a	...	...	n	a	n	a	a	n	a	n	n	n	n	a	a	a	n	n	n	n	a	n	n	n	n	n	n
Bell	n	n	n	...	a	n	a	n	n	a	a	n	...	a	a	n	n	a	a	a	n	n	n	a	n	...	a	a	a	n	n
Bennett	n	a	a	n	a	a	n	a	a	a	a	n	a	a	a	n	a	n	a	a	n	n	a	n	...	n	n	n	n	n	a
Berry	a	...	...	...	a	a	a	...	n	a	n	n	n	a	a	a	a	a	n	a	n	n	n	a	n	...	...	...	...	a	a
Bevans	n	...	...	n	a	a	n	a	n	a	n	a	n	a	a	a	a	n	...	...	...	n	a	a	n	n	n	n	n	...	a
Bowen	a	n	n	n	a	n	n	a	n	a	n	a	n	a	a	...	a	n	...	a	n	n	a	a	n	n	n	n	n	a	a
Bowker	n	...	...	...	n	a	a	n	...	...	...	n	n	a	a	n	n	a	...	...	n	n	n	a	...	...	...	...	a	n	n
Boyd	n	n	n	a	a	n	a	a	a	a	n	n	n	a	a	n	n	a	a	n	n	n	n	a	n	a	a	a	a	n	n
Brace	n	n	a	a	a	a	n	a	...	...	...	a	n	a	a	a	a	n	a	n	a	a	...	a	n	a	...	a	...	a	a
Brown, H.	a	n	a	n	a	a	a	a	n	a	n	n	n	a	a	a	n	n	a	a	n	n	n	a	n	n	n	n	n	n	n
Browne, C. E.	n	a	n	n	...	...	...	a	n	a	n	n	n	...	...	...	...	...	...	...	...	n	n	n	n	...	a	a	a	n	n
Burchard	n	n	n	n	n	n	a	n	n	a	n	n	n	n	n	n	n	a	a	...	n	n	n	a	n	n	n	n	n	n	n
Burnett	...	...	...	...	...	...	...	...	...	...	...	.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burnside	a	a	a	n	a	n	a	a	n	a	...	n	n	a	a	a	a	n	...	...	...	n	n	a	n	n	a	n	n	a	a
Burt	...	n	n	n	...	...	a	a	n	...	n	a	n	a	n	...	n	n	a	a	n	n	n	a	n	n	n	n	n	n	n
Cartter	a	a	a	a	a	n	...	a	a	a	...	n	a	a	a	n	n	a	a	...	n	n	a	a	...	...	...	...	...	...	...
Chamberlain	n	n	n	n	a	n	a	n	n	a	n	a	n	a	a	a	a	n	a	a	n	n	n	a	n	n	n	n	n	n	n
Chase, H.	...	...	...	...	...	...	...	...	...	...	...	..	...	a	a	n	a	a	...	n	n	n	n	a	n	n	n	n	n	a	n
Chase, W.	a	a	a	a	a	n	a	n	a	n	a	n	a	n	n	a	a	a	n	n	n	n	n	n	a	a	a	a	a	n	a
Clark	a	...	...	...	...	a	a	a	a	a	n	a	n	...	n	a	a	n	...	...	...	...	...	n	n	...	...	...	...	...	a
Clothier	n	a	n	a	...	a	n	...	n	n	...	...	a	n	a	n	n	n	n	a	a	a	n	a	n	a	a	n	a	n	n
Coombs	a	...	...	...	...	n	a	a	n	a	a	n	a	a	a	n	n	n	n	a	n	...	n	a	...	...	...	...	...	...	...
Cooper	n	n	n	n	n	n	a	n	n	a	n	n	n	n	a	n	n	a	a	n	n	n	n	a	n	n	n	a	n	n	n
Coxe	n	a	a	a	...	...	...	n	n	a	n	a	...	...	...	...	a	n	...	...	n	n	n	a	n	n	n	n	n	a	n
Crawford	n	a	n	n	n	n	n	a	n	a	n	n	n	n	a	n	a	n	n	n	n	n	n	a	n	n	n	n	a	n	n
Cruson	n	n	n	...	a	n	n	...	n	...	a	n	n	a	n	a	a	n	n	...	n	n	n	a	n	n	n	n	n	a	a
Dennis	n	n	n	...	a	n	a	a	n	a	n	n	...	a	a	n	n	a	a	a	n	n	n	a	n	n	n	n	n	n	n
Dickinson	n	n	a	a	a	a	n	a	a	a	n	n	n	a	a	a	a	a	a	n	n	n	a	n	n	n	n	a	...	a	a
Doty	a	a	n	n	n	n	n	a	n	a	n	n	n	n	n	n	n	a	n	a	n	n	n	a	n	n	n	n	n	n	n
Drake	n	n	a	a	a	n	a	n	n	a	n	n	a	a	a	a	n	a	a	a	a	a	n	a	n	n	n	n	n	n	n
Dunning	n	...	...	...	...	...	...	n	n	a	a	n	a	a	a	a	n	n	...	a	n	n	n	a	n	n	a	n	...	n	n
Edgerton	n	...	...	...	a	n	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ellis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Elmore	n	...	...	n	n	a	n	a	...	...	a	n	a	n	n	a	a	a	a	a	n	a	n	n	a	...	...	...	...	a	a
Fitzgerald	n	a	n	n	n	a	n	n	n	a	n	a	...	a	a	n	a	n	...	...	n	n	n	a	n	...	...	a	n	a	n
French	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fuller	...	...	...	...	...	...	...	...	...	...	..	...	...	a	a	n	a	...	a	a	n	n	n	n	a	...	a	a	a	n	n
Gibson	a	n	n	a	a	n	a	n	n	a	n	n	a	n	n	a	n	a	n	a	n	n	n	n	a	n	n	n	n	n	a
Giddings	n	n	n	a	a	n	a	n	n	n	a	n	a	n	n	a	n	a	n	a	n	n	n	n	a	n	n	n	n	n	a
Gilmore	n	n	n	n	...	n	n	n	...	...	n	n	n	a	n	n	n	n	n	...	...	...	...	a	n	n	n	n	n	n	n
Goodell	a	a	n	n	a	n	a	n	n	a	n	n	a	n	...	a	a	a	n	a	n	n	n	n	a	n	n	n	n	n	n
Goodrich	a	a	a	n	a	a	n	a	n	a	.	a	a	a	a	a	a	n	a	n	n	n	a	a	n	n	n	n	n	a	a
Goodsell	n	a	a	n	n	n	a	n	...	...	n	n	n	a	a	a	a	n	n	n	n	n	n	n	a	n	n	a	a	a	a
Graham	a	a	n	n	a	a	n	a	n	a	a	a	a	a	a	a	a	a	a	n	n	n	n	a	n	a	a	a	a	...	a
Granger	n	...	...	...	a	n	a	a	a	a	a	n	a	a	a	n	n	a	a	a	n	n	n	n	n	n	a	a	a	n	n
Gray	...	n	...	n	a	n	n	a	n	n	n	a	n	...	n	a	a	n	n	a	n	n	n	a	n	n	n	n	n	a	a
Green	...	...	...	...	...	...	...	...	...	...	...	...	...	a	a	a	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hackett	n	a	n	a	n	a	n	n	n	a	a	n	a	a	a	a	n	a	a	n	n	a	a	a	a	a	a	a	a	n	n
Hall, G. B.	...	...	...	...	...	...	...	...	...	...	...	...	...	a	a	n	a	a	...	...	n	n	n	n	a	n	n	n	n	n	n
Hall, J. H.	n	n	a	a	a	a	a	a	a	a	a	a	a	a	a	n	n	a	n	a	n	n	a	n	a	a	n	a	n	...	...
Hammond	n	a	n	a	a	a	a	n	n	a	n	n	n	a	a	a	a	n	a	a	n	n	n	a	a	a	a	a	a	...	a
Harkin	n	a	a	n	a	a	n	n	a	a	n	a	a	a	a	a	a	n	...	n	n	n	a	a	a	...	a	a	...	a	a
Hawes	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hays	...	...	a	n	n	a	n	...	...	...	...	a	a	...	...	n	a	...	n	n	...	...	n	a	a	n	a	n	n	a	a

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Hazen	...	...	...	...	...	...	...	...	...	...	...	.	...	a	a	a	a	a	a	...	n	n	n	n	a	n	n	n	n	a
Hesk	n	a	n	n	a	a	n	a	n	a	n	n	a	a	a	a	a	a	a	n	n	n	n	a	n	...	n	n	n	n	n
Hicks	a	...	...	n	n	a	n	n	n	n	n	n	a	...	n	a	n	n	n	n	n	n	a	n	n	n	n	n	a	a
Hill	n	n	...	...	a	n	n	...	n	a	..	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Holcombe	a	...	...	...	a	a	n	a	n	a	a	n	a	a	a	a	a	n	n	n	n	n	n	n	a	n	a	n	a	a	a
Huebschmann	...	...	...	...	...	...	...	...	...	...	...	...	...	a	a	n	n	a	a	n	n	n	a	a	a	a	a	a	n	n
Hunkins	n	n	n	a	a	n	a	n	n	...	a	n	a	a	a	n	n	a	a	...	n	a	n	n	a	a	a	a	n	n	n
Hyer, G.	n	a	a	a	n	n	n	n	n	a	...	...	n	a	a	n	a	a	a	a	n	a	n	a	n	a	a	a	a	a	a
Hyer, N. F.	...	...	...	...	...	...	...	...	...	...	...	...	...	a	a	n	n	a	a	a	n	n	a	n	n	a	a	a	n	n	n
Inman	a	...	...	n	n	a	n	n	n	a	...	..	..	...	a	a	a	n	a	n	n	n	n	a	n	...	...	...	...	a	a
James	...	...	...	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Janssen	n	a	n	n	a	a	n	...	...	...	..	...	...	n	n	n	a	a	a	...	n	n	n	a	n	n	n	n	n	n	n
Jenkins	a	a	a	n	n	...	n	a	a	a	n	a	n	a	a	a	a	n	n	a	n	n	a	a	n	n	n	n	a	a	a
Judd	n	...	...	...	a	a	n	a	n	a	...	...	...	a	a	n	a	a	a	a	n	n	a	a	n	n	n	n	a	a	n
Kellogg	n	n	a	a	a	n	a	a	...	a	n	n	a	a	a	n	n	a	a	a	n	a	a	n	a	a	a	a	a	n	n
Kern	...	...	...	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Kinne, A.	n	n	n	a	a	n	a	n	n	a	a	n	a	n	n	n	n	a	a	n	n	n	n	n	a	a	a	a	a	a	n
Kinney, J.	n	a	a	a	a	n	n	n	a	a	n	n	a	a	a	n	n	n	a	n	n	n	n	a	n	a	a	a	a	n	n
Lovell	n	a	a	a	a	a	n	n	a	a	n	n	a	a	a	a	a	a	a	...	n	n	a	n	a	a	a	a	a	n	n
Madden	a	...	...	...	...	a	n	a	n	a	n	a	a	a	...	a	a	n	n	n	n	n	a	a	n	a	a	a	a	a	a
Magone	a	n	n	a	n	a	n	n	n	n	a	n	a	n	n	n	n	n	a	n	n	n	n	a	a	n	n	n	n	n	n
Manahan	...	...	...	n	n	a	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Meeker	n	a	n	a	a	a	a	n	n	a	n	n	n	a	a	n	n	n	a	n	n	n	n	n	a	n	n	n	n	n	n
Mills	n	a	n	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Moore	a	n	n	n	a	n	a	a	n	a	a	L	..	a	a	n	n	a	a	a	n	n	n	a	n	n	n	n	n	...	n
Noggle	n	a	n	a	a	n	a	a	...	a	n	n	n	a	a	n	n	a	a	n	n	n	a	a	n	n	n	n	n	n	n
O'Connor	a	a	n	a	a	a	n	a	n	a	n	n	a	a	a	n	n	a	...	a	n	n	n	n	a	n	a	...	n	n	n
Parkinson	n	a	a	n	n	n	n	a	n	a	...	a	n	a	...	a	a	n	n	n	n	...	...	a	n	n	n	n	n	a	a
Parks	n	a	n	a	a	n	n	n	n	a	n	n	a	a	a	n	n	a	a	...	n	n	n	n	a	a	n	a	n	n	a
Parsons	n	n	a	a	a	n	a	n	n	a	n	n	n	a	a	a	a	a	a	a	n	n	n	a	n	n	...	n	n	a	a
Patch	n	a	a	a	a	n	a	a	...	...	n	n	a	...	...	...	n	a	a	...	n	n	n	n	a	a	a	a	a	a	n
Phelps	a	...	...	...	n	a	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Pierce	...	...	...	...	...	...	...	...	...	...	...	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Prentiss	n	a	n	n	...	n	a	a	a	a	a	n	a	a	a	n	n		..	n	a	a	a	n	a	n	n	...	n	n	a
Randall	n	...	...	a	n	n	a	...	n	a	a	n	a	a	a	n	n	a	...	...	a	a	a	a	a	n	n	n	n	n	a
Rankin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Reed	n	a	n	a	a	n	n	a	n	n	a	n	a	a	a	n	n	a	a	...	...	...	...	...	...	...	a	a	a	n	a
Rogan	a	a	n	n	n	n	a	n	a	a	...	...	n	a	a	n	a	n	a	n	n	a	a	a	n	a	a	a	a	a	a
Ryan	a	...	...	...	n	a	n	n	a	a	n	a	n	...	a	a	a	n	n	n	a	a	a	n	a	a	a	a	a	a	a
Seaver	...	...	...	...	...	...	...	...	...	...	...	...	...	a	a	n	n	a	a	a	n	n	n	a	n	n	n	n	n	n	a
Smith, A. H.	n	a	a	n	n	n	a	n	a	a	n	a	n	a	...	a	a	...	n	n	n	n	a	a	n	a	a	a	a	a	a
Smith, G B.	a	a	n	n	...	...	...	a	n	n	a	n	a	a	a	a	a	n	a	a	n	n	n	a	a	a	a	a	a	a	a
Smith, J. Y.	n	...	...	...	...	n	n	n	n	a	a	n	a	...	...	...	...	n	n	n	n	n	a	a	a	a	n	n	n	...	...
Smith, S.	a	n	a	a	n	n	a	n	n	a	a	n	a	a	a	a	a	a	a	a	n	n	n	a	n	a	a	a	a	a	a
Smith, W. R.	n	a	n	a	n	n	a	a	n	a	n	n	n	a	a	n	n	n	a	n	n	n	n	a	n	n	n	n	n	n	a
Soper	a	a	a	a	a	n	a	...	...	a	..	...	..	a	a	a	a	n	a	n	n	n	...	n	n	a	a	a	a	a	a
Steele	a	...	...	...	a	n	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Stockwell	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Strong, Mar.	n	n	n	a	a	a	a	n	a	a	L	n	a	a	a	n	a	n	a	n	a	a	a	n	a	a	a	a	a	a	a
Strong, Moses	n	...	...	...	n	a	n	a	n	n	a	n	a	n	n	a	a	n	n	n	...	a	a	n	a	a	a	a	a	a	a
Toland	n	a	n	a	...	a	n	n	n	a	n	n	a	...	a	a	a	n	...	...	n	n	n	a	n	n	n	n	n	n	a
Topping	n	...	...	...	a	a	a	n	...	...	...	...	n	a	...	...	...	n	a	a	a	n	n	n	a	n	n	a	...	...	n	a
Turner	n	...	...	...	...	n	n	a	n	a	...	..	a	a	a	n	n	a	...	a	n	n	n	a	n	n	a	a	a	a	n	a
Tweedy	n	n	n	a	n	n	a	n	n	a	a	.	a	a	n	n	n	a	a	n	n	a	n	n	a	a	a	a	a	...	a
Upham	n	a	n	a	a	a	a	n	...	...	n	L	a	a	a	a	a	n	a	n	n	n	n	a	n	a	a	a	a	a	a
Vineyard	...	...	...	a	...	a	a	a	...	...	...	...	...	...	n	a	a	a	...	...	...	...	...	a	a	...	...	...	...	...	...
Vliet	n	n	n	n	a	n	a	n	a	a	n	n	a	a	...	n	n	a	n	n	n	a	n	a	n	n	n	n	n	n	a
Wakeley	n	a	a	a	a	n	a	n	a	a	n	n	a	a	a	n	a	a	a	n	n	n	a	a	a	a	a	a	a	a	a
White	a	a	...	n	a	n	a	n	n	a	n	a	n	a	n	a	a	n	a	n	n	n	...	a	n	n	n	a	n	a	a
Whiteside	...	...	...	n	a	n	n	a	n	a	...	...	...	u	n	a	a	n	...	...	...	n	...	a	n	...	...	...	...	a	a
Willard	a	a	a	a	a	n	a	n	...	a	n	a	a	n	n	a	a	n	n	n	a	a	a	n	a	a	a	a	a	a	a
Wilson	n	a	n	a	a	n	n	n	n	a	n	n	...	n	n	n	n	a	a	...	n	n	n	a	n	n	n	...	n	n	a

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Agry	...	...	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Atwood	a	...	n	a	n	a	...	a	a	a	a	n	a	n	a	a	a	a	a	n	n	n	a	a	n	n	n	a	a	a	n
Babcock, B.	...	...	...	...	...	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	...	...	...	...	...	...
Babcock, J. M.	n	a	n	n	n	...	n	...	a	a	a	n	a	n	n	n	n	n	a	n	n	a	a	a	...	n	n	a	n	a	n
Baird	a	a	a	n	a	n	a	a	a	a	n	a	n	n	n	n	n	n	a	a	a	a	...	...	...	...	...	...	...	...	...
Baker	n	a	...	n	n	a	...	n	a	a	a	a	a	n	...	n	a	a	a	n	n	n	a	a	a	n	n	a	n	a	n
Barber, H.	n	n	n	...	n	n	a	a	a	a	a	n	a	n	n	n	n	n	n	n	n	a	a	a	n	n	a	a	n	a	n
Barber, J. A.	...	...	...	a	...	...	...	a	n	n	...	n	n	n	n	n	n	n	a	a	a	a	a	n	a	a	...	a	a	...	n
Beall	n	a	n	a	...	n	a	n	a	a	a	a	n	n	n	n	n	n	a	a	a	a	a	n	a	a	a	a	a	a	n
Bell	n	a	a	a	n	n	a	n	a	a	a	n	a	n	a	a	a	a	n	a	n	a	n	a	n	a	a	a	a	a	n
Bennett	a	a	a	n	...	n	a	a	...	a	a	a	a	n	a	a	a	a	n	a	n	n	a	a	n	n	n	a	a	a	n
Berry	a	a	n	n	a	n	a	a	a	a	a	a	n	n	a	a	n	n	a	a	n	a	n	a	n	n	n	a	a	a	n
Bevans	a	n	...	...	...	n	a	a	n	n	..	a	n	n	a	a	a	a	n	n	a	n	n	a	n	n	n	a	a	a	n
Bowen	a	a	a	n	n	n	a	a	...	n	a	a	a	n	a	n	n	n	n	a	a	n	a	a	n	n	n	a	a	a	n
Bowker	n	a	n	n	n	n	a	n	n	n	a	...	...	...	a	a	n	a	a	a	n	n	a	a	n	n	n	a	a	a	n
Boyd	n	a	n	n	n	n	n	n	a	a	a	...	a	n	a	a	n	a	n	n	n	n	a	a	n	n	n	a	a	a	n
Brace	a	n	a	n	a	...	a	a	a	n	a	a	n	a	n	n	a	a	a	a	n	n	a	a	n	n	n	a	a	n	a
Brown, H.	a	n	a	n	n	n	a	a	n	n	a	a	n	n	a	a	n	n	a	a	a	a	a	a	n	a	n	n	a	a	...
Browne, C. E.	n	a	n	n	n	n	a	n	n	a	a	a	a	n	a	a	n	n	a	n	n	a	a	n	n	a	a	a	n	a	n
Burchard	n	a	a	...	a	n	a	n	n	n	a	...	n	a	n	n	a	a	a	a	a	a	n	n	n	a	a	n	n	a	n
Burnett	...	...	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burnside	a	a	a	n	n	n	...	a	n	n	..	a	n	n	...	...	...	...	...	...	...	...	...	a	a	a	n	n	a	a	a
Burt	a	n	...	n	...	n	a	a	n	n	...	n	n	n	n	n	...	...	a	a	n	a	a	n	n	a	a	n	n	a	n
Cartter	...	...	...	...	...	a	a	...	...	...	a	a	a	n	a	a	...	n	a	n	a	n	a	a	a	n	n	a	a	a	...
Chamberlain	a	n	n	n	n	n	a	a	n	a	a	a	n	n	n	a	a	n	a	a	n	n	...	a	a	n	n	a	a	a	n
Chase, H.	n	a	a	n	a	n	a	n	n	n	a	a	n	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	n
Chase, W.	n	n	n	a	n	a	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Clark	a	...	...	...	...	...	...	a	...	...	a	a	n	a	...	...	...	...	a	n	a	n	...	a	n	n	n	a	n	n	a
Clothier	a	a	n	a	n	a	n	n	a	a	n	n	a	n	a	a	n	n	a	n	a	a	n	a	...	a	a	n	n	a	n
Coombs	...	a	...	...	...	...	...	n	a	a	a	...	...	...	a	n	n	n	a	a	a	a	a	n	n	..	...	...	...	...	..
Cooper	n	a	n	n	...	n	a	n	n	n	a	a	n	n	n	n	a	n	a	n	n	a	a	n	n	a	a	n	n	a	n
Coxe	a	a	...	...	...	n	a	n	n	n	n	a	a	n	n	n	a	n	a	n	n	n	a	...	n	n	a	n	n	a	n
Crawford	n	a	a	n	a	n	a	a	n	n	n	n	n	n	n	n	n	n	n	a	n	n	a	n	n	a	n	n	a	n	n
Cruson	a	n	a	n	a	n	a	...	n	n	a	a	n	n	n	n	n	n	a	n	n	a	n	n	a	n	n	n	a	...	n
Dennis	n	a	a	n	a	n	a	n	n	...	a	a	n	n	n	n	n	n	a	n	a	a	a	n	n	a	n	a	n	a	n
Dickinson	a	...	a	n	n	a	a	a	a	a	a	a	a	...	a	n	n	a	n	n	a	n	a	a	a	n	n	a	a	a	n
Doty	n	a	a	n	a	n	a	n	n	r	a	n	n	n	n	n	n	...	n	n	n	a	a	a	n	n	a	a	n	n	n
Drake	n	a	a	...	...	n	a	...	n	n	a	n	n	n	n	n	n	n	a	n	a	n	...	...	...	...	...	...	...	a	n
Dunning	a	n	...	n	n	n	a	a	a	a	a	a	a	a	n	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Edgerton	...	...	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ellis	...	...	...	...	...	...	...	...	...	...	...	.	...	...	...	...	...	...	...	...	...	...	n	n	n	a	a	n	n	a	n
Elmore	a	a	...	...	...	a	n	a	a	a	n	n	a	n	a	a	n	a	n	a	a	a	n	n	n	a	a	n	n	n	a
Fitzgerald	n	a	a	n	a	n	a	n	n	n	a	a	n	n	a	a	a	a	a	a	a	...	a	a	n	n	n	a	a	a	a
French	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fuller	n	a	n	a	n	n	...	n	r	n	a	a	n	n	a	a	a	a	n	n	n	a	a	n	n	a	n	n	n	...	n
Gibson	a	a	a	n	a	n	a	n	a	a	a	a	n	n	n	n	n	n	a	n	n	a	n	n	n	a	a	n	n	n	n
Giddings	a	a	a	a	a	n	a	n	n	n	a	n	n	a	n	n	n	n	a	a	n	a	a	n	n	a	a	n	n	a	n
Gilmore	a	a	a	n	a	n	a	a	a	n	n	a	n	n	n	n	...	n	...	...	...	...	a	a	n	n	a	a	n	n	a
Goodell	n	a	a	a	a	n	n	a	n	n	a	n	n	n	n	n	n	n	n	n	a	n	a	n	n	n	a	n	n	n	a
Goodrich	a	a	a	n	a	n	a	a	n	n	a	a	n	n	n	a	a	a	a	a	n	a	n	n	n	a	n	a	n	a	n
Goodsell	a	n	a	a	a	n	a	a	a	a	a	..	n	a	n	n	n	n	a	a	a	a	...	...	...	...	...	...	...	...	...
Graham	a	...	n	a	a	n	a	a	n	a	a	a	a	a	a	a	a	a	a	a	n	a	a	a	n	n	n	a	a	a	n
Granger	n	a	...	...	...	n	a	a	n	a	a	...	a	n	n	n	n	n	a	n	n	a	a	n	n	a	n	n	a	n	n
Gray	a	a	a	n	a	n	a	a	n	n	a	n	a	a	a	n	n	n	a	n	a	n	n	a	n	n	n	n	n	n	a
Green	...	..	...	...	...	n	a	a	n	n	a	a	a	n	...	...	...	...	a	...	...	...	a	a	n	n	n	a	a	a	n
Hackett	a	n	n	a	n	a	a	n	a	a	a	n	a	n	a	a	a	a	a	a	...	a	...	...	...	...	...	...	...	a	a
Hall, G. B.	n	n	a	n	a	n	a	n	n	n	a	a	n	...	a	a	n	n	a	a	n	n	a	a	n	n	n	a	a	a	n
Hall, J. H.	...	...	...	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hammond	a	n	n	n	n	a	n	a	a	a	a	a	a	n	a	a	a	a	a	a	n	n	n	a	a	n	n	a	a	a	n
Harkin	a	n	...	a	n	a	a	a	a	a	a	n	a	n	a	a	a	a	a	a	n	n	n	a	a	n	n	a	a	a	a
Hawes	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hays	a	..	...	a	a	a	a	a	n	n	...	...	...	...	...	...	...	...	a	a	n	...	a	a	a	n	n	...	...	a	...

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Hazen	a	a	a	n	...	n	a	a	n	a	a	a	n	n	n	n	n	n	a	a	a	a	a	n	n	a	a	n	n	n	n
Hesk	n	a	a	n	a	n	n	n	n	n	a	a	n	n	n	n	n	n	a	a	a	a	a	n	n	a	n	n	n	n	n
Hicks	a	n	n	n	a	a	a	n	n	n	a	n	a	n	n	...	n	a	a	a	a	a	a	n	n	n	a	a	a	n	n
Hill	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	n	a	a	a	n	a	n
Holcombe	a	n	n	a	a	n	n	a	a	n	a	a	n	a	n	n	n	a	a	a	n	n	n	n	a	a	a	a	a	a	a
Huebschmann	n	a	n	a	n	a	n	n	n	a	a	a	a	n	n	n	a	a	n	a	n	a	a	n	n	a	a	n	n	n	n
Hunkins	n	n	...	a	n	a	n	n	a	a	a	n	a	n	a	a	a	a	a	a	n	a	a	n	...	a	a	n	n	a	n
Hyer, G.	...	a	...	...	...	...	...	...	a	n	n	n	n	n	a	a	n	n	a	a	n	a	a	a	a	n	n	a	a	n	n
Hyer, N. F.	n	...	n	n	n	n	n	...	a	a	a	n	n	n	n	n	n	n	a	n	n	a	a	a	n	n	n	a	a	a	n
Inman	a	n	n	n	n	a	a	a	a	a	a	n	a	n	a	a	a	a	a	n	a	n	a	a	n	n	n	a	a	a	a
James	...	...	...	...	...	...	...	a	n	a	a	...	n	n	n	n	a	a	a	n	a	n	a	a	a	n	n	a	a	n	n
Janssen	n	a	a	n	a	n	a	n	n	n	a	a	n	a	n	n	a	n	a	n	n	a	a	n	n	a	n	a	a	a	n
Jenkins	a	a	a	n	a	n	a	a	n	n	a	a	n	a	a	a	n	n	a	a	...	n	a	a	a	n	n	a	a	a	n
Judd	n	a	a	a	n	n	a	n	n	a	a	a	n	n	a	a	n	n	n	n	a	a	n	n	a	n	a	...	a	n	
Kellogg	a	n	n	a	n	a	a	a	a	a	a	...	a	n	a	a	a	a	a	n	n	a	...	...	...	...	...	...	...	...	...
Kern	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Kinne, A.	n	n	n	a	n	a	n	n	a	a	a	n	a	n	a	a	a	n	a	n	a	a	a	n	n	a	a	a	a	a	n
Kinney, J.	n	...	n	n	n	a	n	n	a	a	a	n	a	n	n	n	a	n	a	n	n	a	a	a	n	n	n	a	a	a	n
Lovell	a	n	n	a	n	a	n	a	a	a	...	n	a	n	a	a	a	a	a	n	n	n	a	a	a	n	n	a	a	a	n
Madden	a	n	n	n	n	a	n	a	a	a	a	n	a	n	a	a	a	a	a	n	a	a	a	...	n	n	a	a	a	n	
Magone	n	a	a	n	...	n	a	n	n	n	a	n	n	n	n	a	a	a	a	a	a	a	a	n	n	a	n	n	n	a	n
Manahan	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	n
Meeker	n	a	n	n	n	n	a	n	a	a	a	a	n	n	n	n	a	a	a	n	n	a	a	a	n	n	a	a	a	n	n
Mills	...	...	...	...	...	...	...	...	n	a	a	a	n	n	n	n	n	n	a	n	n	n	a	a	...	n	n	a	a	a	a
Moore	n	a	n	n	n	n	a	n	a	a	a	a	n	n	a	a	n	n	a	a	a	a	a	n	n	a	a	n	n	a	n
Noggle	n	a	a	n	a	n	a	n	n	n	a	a	...	a	a	a	a	...	a	a	a	n	n	a	a	n	n	a	a	a	n
O'Connor	n	a	...	a	n	n	a	n	a	n	a	a	n	n	n	n	n	n	a	n	a	n	a	n	n	n	n	a	a	n	n
Parkinson	a	a	a	n	a	n	a	...	n	n	a	a	n	n	a	a	n	n	a	a	n	n	a	a	a	n	n	a	a	a	a
Parks	n	n	n	n	n	a	n	n	a	a	a	n	a	a	n	...	a	a	a	n	a	a	n	n	n	a	a	n	n	...	n
Parsons	n	a	a	n	n	n	a	a	n	...	a	a	a	a	a	a	a	a	a	a	n	a	n	n	n	a	n	n	n	n	n
Patch	a	n	...	a	n	a	a	a	a	a	a	n	a	a	a	a	n	n	...	...	n	n	n	a	n	n	n	a	a	a	n
Phelps	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Pierce	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	a	a	n	n	n	a	a	n
Prentiss	n	n	...	...	...	n	a	...	a	a	n	a	n	n	n	n	n	a	a	a	a	a	a	n	n	a	a	n	a	a	
Randall	n	a	n	a	...	n	n	n	...	...	n	n	n	n	n	n	n	n	a	n	n	a	a	n	n	a	n	n	n	a	n
Rankin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Reed	n	n	n	n	n	a	n	n	a	a	a	n	a	a	n	n	n	n	a	n	a	a	n	n	n	a	a	n	n	n	n
Rogan	a	n	n	n	n	a	n	a	n	n	a	n	a	a	a	a	a	a	a	n	a	a	n	a	a	...	n	n	a	a	n	n
Ryan	a	...	n	n	n	a	...	a	a	a	n	n	a	n	a	a	n	a	a	a	n	n	n	a	a	n	n	a	a	a	a
Seaver	n	a	a	a	...	n	a	n	n	n	a	a	a	n	n	n	n	n	n	n	a	a	a	n	n	a	n	a	a	a	n
Smith, A. H.	a	n	n	n	n	a	n	a	a	a	a	n	a	n	a	a	a	a	a	a	n	n	a	a	a	n	n	a	a	a	...
Smith, G. B.	...	a	...	a	n	n	a	...	...	...	...	...	...	a	n	n	...	...	...	...	n	n	n	a	a	n	n	n	a	n	n
Smith, J. Y.	a	n	n	a	n	a	n	a	...	a	a	n	a	n	n	n	a	a	a	n	n	n	a	a	a	n	n	n	n	n	a
Smith, S.	a	n	n	a	n	a	n	a	a	a	a	n	a	n	a	a	a	a	a	a	a	a	a	a	n	n	n	a	a	a	n
Smith, W. R.	n	a	n	n	n	n	a	n	a	a	a	n	n	n	n	n	n	n	a	n	a	n	a	a	a	n	n	a	a	a	n
Soper	a	...	n	n	n	a	a	a	a	a	a	a	a	n	a	a	n	n	n	n	n	a	a	a	n	n	n	a	a	a	n
Steele	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Stockwell	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Strong, Mar.	a	n	a	n	n	a	n	a	a	a	a	n	a	n	a	n	a	a	n	n	n	a	a	n	n	a	n	a	a	a	a
Strong, Moses	a	n	n	n	n	a	n	a	a	a	n	n	a	a	n	a	a	a	a	n	n	a	n	a	a	n	n	a	a	n	a
Toland	n	a	...	n	n	n	a	n	n	a	a	n	n	n	a	a	a	a	a	n	n	n	a	a	n	n	n	a	a	a	a
Topping	n	a	a	a	n	n	a	n	n	n	a	...	...	...	a	n	n	n	a	n	n	n	a	a	n	n	n	a	a	a	n
Turner	n	n	a	n	n	n	n	n	a	a	a	n	a	n	n	n	n	n	a	n	a	a	a	n	n	a	n	n	a	n	n
Tweedy	a	n	n	n	n	a	n	n	a	a	n	n	a	n	a	a	a	a	a	n	a	a	n	n	n	a	a	n	n	n	n
Upham	a	...	n	n	n	a	a	n	a	a	a	n	a	n	n	n	n	n	a	a	n	a	a	n	n	a	n	a	a	a	...
Vineyard	...	n	...	...	n	a	n	a	...	...	...	n	a	a	a	a	a	a	a	a	a	n	n	a	a	n	n	n	n	n	a
Vliet	n	a	n	a	n	n	a	n	a	a	a	n	n	n	n	a	a	a	a	n	a	a	n	n	a	a	a	a	a	n	n
Wakeley	a	n	n	n	n	a	n	a	...	...	a	n	a	n	a	a	a	a	a	n	n	n	a	a	n	n	n	a	a	a	n
White	a	n	a	n	a	n	a	a	n	n	a	a	n	n	n	n	a	a	a	a	n	n	n	a	a	n	n	a	a	a	a
Whiteside	a	n	...	...	...	a	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Willard	a	n	a	n	n	a	n	a	a	a	n	n	a	a	n	a	n	a	n	n	n	n	...	...	...	...	...	...	...	...	...
Wilson	n	a	n	n	a	n	a	n	a	a	a	a	n	n	a	n	a	n	a	n	n	n	a	n	n	a	n	a	a	a	n

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Agry	...	...	...	...	...	...	...	...	...	...	..	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Atwood	a	a	n	n	a	n	a	a	a	a	..	a	a	a	a	a	...	a	a	a	a	n	a	...	a	a	n	n	n	n	n
Babcock, B.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Babcock, J. M.	a	a	n	...	...	...	...	...	...	...	...	...	...	...	...	..	.....	.....	.....	a	a	n	a	a	a	a	...	n	n	n	n
Baird	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Baker	a	a	a	n	a	n	a	a	n	a	a	a	a	...	...	n	a	a	a	a	a	n	a	a	a	...	n	n	a	a	a
Barber, H.	n	a	a	a	a	a	n	n	a	n	n	n	n	...	a	n	n	a	a	a	a	n	a	a	a	n	n	n	n	n	n
Barber, J. A.	a	a	a	a	...	n	a	a	a	n	a	n	n	...	...	n	n	n	n	n	n	a	n	n	a	n	n	...	n	n	n
Beall	n	a	n	n	a	a	n	n	a	a	..	...	a	...	...	n	n	a	a	a	n	a	n	a	n	n	n	a	n	n	n
Bell	n	a	n	n	a	a	n	n	n	n	n	a	a	...	a	n	n	a	a	a	n	n	n	a	n	a	n	n	a	a	a
Bennett	n	a	n	n	a	n	n	n	n	n	n	a	n	n	n	n	n	a	a	n	n	n	n	a	a	a	n	n	a	a	a
Berry	...	...	...	...	...	...	...	...	...	...	...	...	...	a	a	a	a	n	n	n	a	n	n	a	a	a	a	n	a	a	a
Bevans	a	a	a	a	...	n	a	a	n	n	a	n	n	...	...	n	n	a	a	n	n	...	...	n	a	a	n	n	a	a	a
Bowen	n	a	n	n	a	n	n	n	...	a	n	n	a	a	a	a	n	a	a	n	a	n	n	a	n	a	n	n	a	a	a
Bowker	a	a	a	n	a	a	n	n	n	a	n	a	a	...	...	n	n	a	a	n	a	n	n	a	n	a	a	n	a	a	a
Boyd	n	a	n	n	a	n	n	n	n	a	n	a	a	...	a	n	n	a	a	a	a	n	n	a	a	a	n	n	a	a	a
Brace	a	a	a	a	n	...	...	...	...	n	a	a	n	a	a	a	a	n	n	...	...	...	n	n	a	a	n	n	a	a	a
Brown, H.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	n	n	n	n	n	a	a	a
Browne, C. E.	n	a	n	n	a	n	n	n	a	a	n	a	a	a	a	a	n	a	a	n	a	n	a	a	n	n	n	n	n	n	n
Burchard	n	a	n	a	n	n	a	a	n	a	n	a	a	a	n	n	n	a	a	n	n	a	n	n	n	n	a	n	n	n	n
Burnett	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burnside	a	a	a	a	n	n	a	a	n	a	a	a	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a
Burt	a	...	a	a	n	n	a	a	a	n	a	n	n	...	...	n	a	n	n	n	n	n	a	n	n	...	...	n	...	...	...
Cartter	n	a	n	n	a	a	n	n	a	a	n	a	a	a	a	a	n	a	a	n	a	n	a	a	n	a	n	n	a	a	a
Chamberlain	n	a	n	n	a	n	n	n	n	a	n	a	a	n	...	a	n	a	a	n	n	a	n	a	a	a	n	n	a	...	n
Chase, H.	n	a	n	n	a	a	a	n	n	a	n	a	a	n	a	n	n	a	a	n	n	a	n	a	n	n	n	n	n	n	n
Chase, W.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Clark	a	a	a	a	n	a	n	n	a	a	n	a	...	...	...	a	a	a	n	...	n	...	...	a	...	...	...	...	...	...	...
Clothier	n	n	a	a	n	n	a	...	n	n	a	n	a	a	a	n	a	...	n	a	a	n	a	a	n	n	a	n	n	n	a
Coombs	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cooper	n	a	n	n	a	n	n	n	a	n	a	n	a	n	n	n	n	a	a	...	...	...	a	...	n	n	n	n	n	a	a
Coxe	n	a	a	n	a	n	n	n	n	a	n	a	a	a	a	a	n	a	a	n	n	n	n	a	n	a	n	n	a	a	n
Crawford	n	a	n	n	a	a	a	n	n	a	n	a	a	a	a	a	n	a	a	n	a	n	a	a	a	a	a	n	n	n	n
Cruson	a	a	n	a	n	a	a	a	n	n	a	a	n	...	...	...	...	...	...	...	...	...	...	...	...	...	n	...	n	...	...
Dennis	n	a	...	n	a	n	n	n	n	a	n	a	a	...	...	n	n	a	a	a	n	a	n	a	n	a	...	n	...	n	n
Dickinson	a	a	n	n	a	a	n	n	n	a	n	a	a	a	a	a	n	a	a	n	a	n	a	n	a	a	...	n	a	a	a
Doty	n	a	n	n	a	a	n	n	a	a	n	a	a	...	...	n	n	a	a	n	n	a	n	a	n	n	a	n	n	n	n
Drake	n	a	n	n	a	n	a	a	a	a	n	a	a	a	n	n	n	a	a	n	n	a	n	n	n	a	n	n	n	n	n
Dunning	n	a	n	n	a	a	n	n	n	a	n	a	a	...	...	...	n	a	a	n	a	n	a	a	...	...	n	n	n	n	n
Edgerton	...	...	...	...	...	...	...	...	...	...	..	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ellis	n	a	n	n	a	a	n	n	a	a	n	a	a	a	a	a	n	a	a	n	a	n	a	a	n	n	n	n	n	a	n
Elmore	a	a	a	a	a	a	a	a	n	a	a	a	a	n	n	n	n	a	a	a	a	n	a	a	n	n	a	a	n	n	n
Fitzgerald	a	a	a	a	n	n	a	a	a	a	a	a	n	n	n	n	a	n	n	n	n	n	a	a	a	a	n	n	n	n	n
French	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fuller	n	a	n	n	a	n	n	n	n	a	n	a	a	a	n	a	n	a	a	a	n	n	n	a	n	...	...	n	n	n	n
Gibson	n	a	...	...	...	n	n	n	a	n	...	a	n	...	...	...	a	a	n	n	n	a	n	...	n	n	n	n	n	n	n
Giddings	n	a	n	n	a	n	n	n	a	n	a	n	n	...	...	...	a	a	n	a	n	a	n	n	n	n	n	n	n	n	n
Gilmore	a	a	a	a	n	...	...	...	...	n	a	a	n	...	n	n	n	n	n	n	n	a	n	n	...	n	n	n	a	n	n
Goodell	n	a	n	n	a	a	a	...	n	a	n	a	a	n	a	n	n	a	a	a	n	a	n	a	n	...	n	n	n	n	n
Goodrich	n	a	n	n	a	a	n	n	...	n	n	...	...	a	n	a	n	a	a	a	n	a	n	a	a	a	n	n	a	a	n
Goodsell	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Graham	n	n	n	n	a	n	a	a	n	a	n	a	a	a	a	a	n	a	a	a	a	n	a	a	a	a	a	n	n	n	n
Granger	n	a	n	n	a	a	n	n	a	n	n	n	n	...	...	n	n	a	a	n	a	n	n	a	n	a	n	n	n	n	n
Gray	a	a	a	a	n	a	a	a	a	a	a	n	n	...	..	n	a	n	n	n	n	a	n	n	n	n	n	n	n	n	n
Green	n	a	n	n	a	a	n	n	n	a	n	n	n	...	n	n	n	a	a	a	...	...	a	a	a	a	n	n	...	..	...
Hackett	a	a	a	a	n	n	a	a	a	n	a	n	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hall, G. B.	n	a	n	n	a	a	n	n	a	a	n	a	a	a	a	a	n	a	a	n	n	a	n	...	n	n	n	n	n	n	a
Hall, J. H.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hammond	...	...	...	...	...	n	n	n	n	a	n	a	a	a	a	a	n	a	a	n	a	n	a	a	a	n	...	n	a	a	a
Harkin	a	a	a	a	n	n	a	a	n	a	a	a	n	a	a	a	a	n	n	n	a	n	a	n	n	a	a	a	n	a	a
Hawes	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hays	a	a	n	a	n	...	...	...	n	n	...	...	...	a	...	a	a	n	n	a	a	a	n	n	a	a	n	n	a	a	a

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Members.	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248
Hazen	n	a	n	n	a	n	a	n	a	a	n	a	a	a	n	n	n	a	a	...	...	a	n	n	a	n	n	n	n	n	n
Hesk	...	n	...	n	a	a	n	n	n	a	n	n	n	a	a	a	n	a	a	n	...	a	a	a	n	n	n	n	n	n	n
Hicks	n	n	...	a	n	a	a	a	a	n	a	n	n	a	n	a	a	n	n	a	...	a	n	n	a	a	a	n	n	n	n
Hill	n	a	n	n	a	n	a	a	a	a	a	a	a	n	n	n	n	a	a	n	n	a	n	n	a	n	n	a	a	a	a
Holcombe	a	a	n	a	n	n	a	n	n	a	n	a	a	a	a	a	a	n	n	a	a	n	n	n	n	a	n	n	n	n	n
Huebschmann	a	a	a	a	n	n	a	...	n	a	a	a	n	n	n	a	n	a	n	a	a	n	n	n	n	a	a	n	a	a	n
Hunkins	n	a	...	n	a	n	n	n	n	a	...	a	a	a	a	a	n	a	a	a	n	n	n	a	a	a	n	.	n	n	n
Hyer, G.	n	a	a	n	a	n	a	n	n	a	a	a	...	...	...	...	...	...	...	...	...	...	...	a	...	a	n	n	n	n	n
Hyer, N. F.	n	a	...	n	a	a	n	n	a	n	...	n	a	...	...	n	n	a	a	a	a	n	a	a	n	n	n	n	n	n	n
Inman	a	a	a	a	n	n	a	n	a	n	n	.	n	n	n	n	a	a	n	n	a	n	a	a	a	a	n	n	n	n	n
James	n	a	n	a	a	a	n	n	a	n	n	n	n	a	n	a	n	a	n	n	a	n	a	a	a	a	n	n	a	a	n
Janssen	n	a	n	n	a	n	n	n	n	a	n	a	a	a	a	a	n	a	a	n	n	a	n	a	n	n	...	n	a	a	a
Jenkins	n	a	n	n	a	...	a	n	a	a	n	n	a	a	a	a	a	a	a	n	n	a	n	n	a	a	n	n	n	n	a
Judd	n	a	n	n	a	n	a	n	n	a	n	a	a	...	n	n	n	a	a	a	n	a	n	a	n	a	a	a	n	a	a
Kellogg	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	n	n	n
Kern	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Kinne, A.	n	a	n	n	a	n	n	n	n	a	n	a	a	a	a	a	n	a	a	a	a	n	a	a	n	a	n	n	n	n	n
Kinney, J.	a	a	a	a	n	n	a	a	n	a	a	n	n	a	a	a	a	n	n	n	a	n	a	a	a	a	n	n	a	a	n
Lovell	n	a	a	a	n	n	n	n	a	a	n	a	a	n	n	n	a	n	n	a	a	n	a	n	a	a	n	n	a	a	a
Madden	n	a	n	a	...	n	a	n	a	a	a	b	n	...	...	...	...	...	...	...	...	...	...	a	a	a	n	n	a	a	a
Magone	n	n	n	n	a	a	n	a	n	a	n	a	a	n	n	n	n	a	a	n	n	n	n	a	n	a	a	...	n	n	n
Manahan	n	n	n	n	a	n	n	n	n	a	n	a	a	a	a	a	n	a	a	n	n	a	n	a	a	n	n	n	n	n	n
Meeker	...	...	n	n	a	n	a	n	n	a	n	a	a	...	a	n	n	a	a	n	n	a	n	n	...	...	...	n	n	n	n
Mills	a	a	a	a	n	n	a	a	n	n	a	n	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Moore	a	a	a	n	a	n	a	n	...	a	n	a	a	a	a	a	n	a	a	...	...	...	...	...	n	n	n	n	a	a	a
Noggle	n	a	n	n	a	n	n	n	n	a	n	a	a	a	a	a	n	a	a	...	...	...	...	...	n	n	n	n	a	a	a
O'Connor	n	a	n	n	a	a	n	n	n	a	n	a	a	a	n	a	n	a	a	n	n	a	n	a	a	a	n	n	...	a	a
Parkinson	a	a	a	a	n	a	a	a	a	a	a	a	n	a	a	a	n	a	a	a	n	n	n	a	n	n	n	n	n	n	n
Parks	a	a	a	a	n	a	n	n	n	a	n	a	a	...	...	a	a	a	n	...	...	...	a	n	n	n	...	n	a	a	a
Parsons	a	a	a	n	a	n	n	n	n	...	n	a	n	n	n	a	a	a	n	...	...	...	a	n	n	n	...	n	a	a	a
Patch	n	a	...	n	a	a	n	n	a	n	n	n	n	a	a	n	n	a	a	n	n	n	n	n	a	a	...	n	a	...	...
Phelps	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	n	...	...	...	...	...	...	...
Pierce	n	a	n	n	a	a	n	n	n	a	n	a	a	a	a	a	n	a	a	n	n	n	n	a	...	...	...	n	a	a	a
Prentiss	a	a	a	a	a	...	...	...	...	n	a	n	n	...	...	...	a	n	n	a	n	...	n	...	...	...	...	n	n	n	n
Randall	n	a	n	n	a	a	n	n	n	a	n	a	a	n	n	n	n	a	a	a	n	a	n	a	n	n	a	n	a	a	a
Rankin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	n	a	...	n	n	n
Reed	n	n	a	a	n	a	a	a	n	a	a	n	n	a	n	a	a	n	n	...	...	...	a	a	a	n	a	a	a	a	a
Rogan	a	a	a	a	n	n	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	n	a	a	a	a	...	n	n	n	n
Ryan	a	a	a	a	n	n	a	a	n	n	a	n	n	a	a	a	a	n	n	n	a	n	a	n	a	a	a	a	n	a	a
Seaver	n	a	n	n	a	n	a	a	n	a	n	a	a	...	n	n	n	a	a	n	n	a	n	a	a	a	n	n	a	a	a
Smith, A. H.	a	a	...	...	...	...	...	...	...	a	a	a	n	a	a	a	a	a	n	n	a	n	a	a	a	a	n	a	a	a	a
Smith, G. B.	n	a	n	n	a	a	n	n	n	n	n	n	a	...	n	...	n	a	a	...	n	a	n	a	n	n	a	n	n	n	n
Smith, J. Y.	a	n	...	a	n	n	a	a	n	n	a	n	n	...	...	...	a	n	n	a	a	n	a	a	...	...	...	...	...	...	...
Smith, S.	a	a	a	a	n	n	a	a	n	a	a	a	n	n	a	a	a	n	n	a	a	n	a	a	a	a	a	n	n	a	a
Smith, W. R.	n	a	n	n	a	n	n	n	a	n	a	a	n	a	n	n	n	a	a	n	n	a	n	n	a	a	a	n	n	n	n
Soper	a	a	a	a	n	n	a	a	a	n	..	...	n	a	...	a	a	n	n	a	a	n	a	n	a	a	a	n	n	a	a
Steele	...	...	...	...	...	...	...	...	...	...	...	.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Stockwell	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Strong, Mar.	a	a	a	a	n	n	a	a	a	n	a	n	n	n	a	n	a	n	n	...	...	...	...	...	...	...	...	...	...	...	...
Strong, Moses	a	a	a	a	n	a	a	a	...	n	a	n	n	a	a	a	a	n	n	a	a	a	a	n	a	a	n	n	a	a	a
Toland	a	a	...	a	n	n	a	a	n	a	...	...	...	a	a	a	n	a	...	a	n	n	a	n	a	n	n	n	n	n	n
Topping	n	a	n	n	a	a	n	n	n	a	n	a	a	...	a	n	n	a	a	a	n	a	n	...	a	a	n	n	a	a	a
Turner	n	a	a	a	a	n	a	a	n	n	a	n	n	n	n	n	a	n	n	n	n	n	n	n	a	n	a	n	n	n	n
Tweedy	n	a	a	a	n	n	a	a	a	n	a	n	n	n	n	n	a	n	n	a	a	n	a	n	a	n	n	n	n	a	n
Upham	n	...	a	a	a	n	n	n	a	a	n	a	a	a	a	a	a	a	a	a	a	n	a	a	a	a	n	n	n	n	n
Vineyard	n	n	n	n	n	a	a	a	a	n	a	n	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Vliet	n	a	n	n	a	a	n	n	n	a	n	a	a	a	...	a	n	a	a	a	n	a	n	a	n	a	n	n	n	n	n
Wakeley	a	a	a	a	n	n	a	a	a	a	a	n	n	a	a	a	a	n	n	a	a	n	a	a	a	a	a	n	n	a	a
White	a	a	a	a	n	n	a	a	n	n	a	n	n	a	a	a	a	n	n	n	n	a	n	n	a	a	n	n	a	a	a
Whiteside	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Willard	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wilson	n	a	n	n	a	a	n	n	n	a	n	a	a	a	a	a	n	·	a	a	n	a	n	a	n	a	n	n	a	...	...

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Members.	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279
Agry	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Atwood	n	a	a	n	n	n	a	n	n	a	a	n	a	a	a	n	a	a	n	n	n	n	a	n	...	...	...	...	n	a	...
Babcock, B.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Babcock, J. M.	n	n	a	a	n	n	n	n	n	n	a	n	n	n	a	a	a	n	a	...	...	...	...	n	a	n	n	n	...	...	...
Baird	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Baker	a	a	a	a	a	a	a	a	n	a	a	n	a	a	a	n	a	a	n	n	a	n	a	n	n	a	n	n	n	n	...
Barber, H.	n	...	n	a	a	a	...	n	a	a	n	a	a	a	a	n	a	a	...	...	a	n	a	...	...	...	...	...	n	n	...
Barber, J. A.	n	n	n	n	n	...	...	n	a	n	n	a	n	n	n	n	n	n	a	n	a	a	a	...	...	...	...	...	...	...	...
Beall	n	n	n	n	a	n	a	n	n	a	a	L	a	n	a	n	a	n	...	...	...	...	...	...	...	...	...	...	...	...	...
Bell	a	a	a	a	a	...	a	a	n	a	a	n	a	n	n	n	a	a	n	n	a	n	a	n	n	n	n	n	n	a	...
Bennett	a	a	...	n	a	...	...	a	n	n	a	n	a	n	...	a	a	n	a	a	a	n	a	n	a	n	...	n	...	n	...
Berry	a	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bevans	a	a	...	...	...	n	n	a	n	n	a	n	n	a	a	a	a	n	a	n	a	n	a	a	a	...	a	n	n	n	...
Bowen	a	a	a	n	...	...	n	a	n	n	a	...	a	a	a	a	a	n	...	n	a	n	a	n	a	n	...	n	n	n	...
Bowker	a	a	n	a	a	a	n	a	n	a	a	a	n	a	a	...	...	...	...	...	...	...	...	n	n	n	n	n	n	a	...
Boyd	a	a	a	a	...	a	a	a	n	a	a	n	a	n	a	n	a	a	a	n	a	a	a	n	n	n	n	n	...	n	...
Brace	a	a	...	a	...	a	...	a	n	a	a	n	a	a	a	a	a	a	n	a	n	n	n	a	a	a	a	a	n	n	...
Brown, H.	a	a	n	n	a	n	n	a	n	n	a	n	a	a	n	a	a	a	n	n	a	...	a	n	a	...	...	...	n	n	...
Browne, C. E.	n	n	a	a	...	n	n	n	n	a	a	n	a	n	a	...	...	...	n	...	...	...	...	n	n	n	n	n	a	a	...
Burchard	n	n	n	a	a	n	n	n	a	n	a	a	n	n	a	a	n	n	a	n	a	a	a	...	...	...	...	...	...	...	...
Burnett	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burnside	a	a	...	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burt	...	...	n	a	n	a	a	n	a	n	n	n	n	n	n	a	n	n	a	n	a	a	a	a	a	a	n	n	n	...	...
Cartter	a	a	...	n	a	n	n	a	n	a	a	n	a	a	a	a	a	n	a	n	...	n	n	n	...	n	n	...	n	n	...
Chamberlain	...	a	a	n	n	n	n	a	n	n	a	n	n	n	n	...	a	n	...	n	n	n	n	n	n	n	n	n	a	a	...
Chase, H.	n	n	n	n	a	n	n	n	n	n	a	n	a	n	n	a	a	a	a	n	a	a	n	n	n	a	n	n	a	a	...
Chase, W.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Clark	n	n	...	n	a	n	n	n	n	n	a	n	n	a	a	a	a	a	n	n	n	n	n	a	...	n	n	n	n	n	...
Clothier	n	a	n	...	n	n	n	n	n	...	a	a	a	a	a	a	a	a	n	n	...	a	a	a	...	a	a	n	n	n	...
Coombs	...	...	...	...	a	n	n	a	a	...	..	...	...	...	...	a	a	a	n	n	a	n	a	a	...	n	n	n	a	a	...
Cooper	a	a	a	a	n	n	n	n	n	a	a	n	a	n	a	n	a	a	a	n	a	a	n	n	n	n	n	...	a	a	...
Coxe	a	a	...	n	n	...	...	n	...	n	a	n	n	a	a	n	n	a	n	n	n	n	n	n	a	n	n	n	a	a	...
Crawford	n	n	n	a	n	a	n	n	n	a	a	n	n	n	n	n	n	n	a	a	n	n	n	n	a	n	n	n	n	n	...
Cruson	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dennis	n	a	n	a	a	a	a	n	n	a	a	n	a	n	a	n	a	a	n	n	a	n	a	n	n	n	n	n	n	n	...
Dickinson	a	a	a	a	...	n	n	a	n	a	a	n	L	n	a	a	a	n	a	n	n	n	n	n	a	n	n	n	n	n	...
Doty	n	n	n	a	n	n	n	a	n	n	a	n	n	n	n	n	n	n	a	n	a	n	a	n	n	n	n	n	n	a	...
Drake	n	n	...	a	n	a	a	a	a	n	a	a	a	a	a	a	a	a	a	n	a	n	a	n	a	n	n	n	n	a	...
Dunning	a	...	n	n	n	...	n	a	n	n	a	n	n	n	n	a	a	n	a	a	n	a	n	n	a	n	n	n	n	a	...
Edgerton	...	...	...	a	...	n	n	n	a	n	n	a	n	a	a	n	...	a	a	n	n	a	n	n	...	...	...	...	n	n	...
Ellis	n	n	a	a	n	n	n	n	n	n	n	a	n	n	n	a	n	n	a	a	n	n	n	n	n	n	n	n	a	a	...
Elmore	n	n	n	a	a	n	n	n	a	n	a	n	n	a	a	a	n	a	...	n	a	n	a	n	n	a	...	...	...	n	...
Fitzgerald	n	a	a	a	n	n	n	n	n	n	a	n	n	a	a	a	a	a	n	...	...	n	a	a	a	n	n	n	n	a	...
French	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fuller	n	...	a	a	a	...	n	a	n	a	a	n	a	a	n	a	a	a	a	...	...	...	...	a	a	n	n	n	a	a	...
Gibson	n	n	a	a	n	n	n	n	a	a	a	a	n	a	a	n	a	...	...	n	a	a	a	...	...	...	...	...	...	...	...
Giddings	n	n	a	a	a	a	a	n	a	a	n	a	n	n	n	n	a	n	a	n	a	n	a	...	...	...	...	...	...	...	...
Gilmore	n	n	n	a	n	n	n	n	a	n	n	n	n	n	n	a	n	n	a	n	a	a	a	a	a	n	n	n	...	...	...
Goodell	n	n	a	a	...	a	...	n	n	a	a	n	n	n	n	a	a	n	a	n	a	a	n	...	n	a	n	n	n	n	...
Goodrich	a	a	n	n	a	n	n	a	n	n	n	n	n	a	a	a	a	a	a	a	n	n	n	a	a	a	n	n	a	a	...
Goodsell	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Graham	n	n	n	a	a	a	a	n	n	a	n	n	n	n	n	n	a	n	a	a	n	n	n	n	a	n	n	n	n	n	...
Granger	n	a	a	...	n	n	a	a	n	a	a	n	a	n	a	n	a	a	a	n	a	n	a	n	n	n	n	n	...	a	...
Gray	n	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Green	...	...	...	...	...	n	n	a	n	a	a	n	a	a	a	n	a	a	a	n	a	a	a	n	a	n	n	n	n	n	...
Hackett	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hall, G. B.	a	a	n	a	a	n	n	a	n	n	n	n	n	n	n	...	...	...	...	...	...	...	...	n	n	n	n	n	n	n	...
Hall, J. H.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hammond	a	a	n	a	n	n	n	a	n	...	a	n	a	a	n	a	a	n	a	n	n	n	n	n	a	n	n	a	...	...	...
Harkin	a	a	n	a	n	n	n	a	n	n	n	n	n	a	a	a	...	a	a	a	n	...	n	a	...	n	n	n	a	a	...
Hawes	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hays	a	a	...	a	a	...	...	a	...	n	n	n	n	a	a	...	...	...	a	a	n	...	...	a	a	...	...	...	a	a	...

NUMBER OF ROLL CALL

Members.	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279
Hazen	n	n	...	a	n	...	...	n	n	n	n	a	n	a	a	n	a	n	a	n	a	n	a	...	...	...	...	...	...	...	...
Hesk	n	n	a	...	n	...	...	a	n	a	a	n	n	a	a	a	a	a	a	a	n	n	n	n	n	n	n	n	a	a	...
Hicks	a	a	a	a	a	n	n	a	a	n	n	n	n	a	a	a	a	a	n	n	...	a	a	a	n	...	...	...	...	a	...
Hill	n	n	n	a	n	...	...	a	a	n	a	a	n	n	a	a	n	n	...	n	a	...	a	n	n	n	n	n	a	a	...
Holcombe	a	a	n	n	a	a	n	a	n	n	a	n	a	n	a	a	a	n	a	n	a	n	a	n	a	n	n	n	n	a	...
Huebschmann	n	...	n	a	a	a	a	n	n	a	a	n	a	a	a	n	a	a	n	n	a	a	a	n	...	a	a	...	...	a	...
Hunkins	n	n	...	a	...	n	n	a	n	a	a	n	a	a	a	n	a	a	n	n	a	a	n	n	n	n	n	...	...	...	...
Hyer, G.	n	n	a	a	n	n	n	n	n	...	a	n	n	n	a	n	a	a	a	n	n	n	n	a	...	...	...	n	a	...	...
Hyer, N. F.	n	...	a	a	a	n	n	a	n	a	a	n	a	a	a	n	a	a	a	a	...	...	...	...	...	...	...	...	...	...	...
Inman	a	a	a	n	n	n	n	a	n	n	n	n	n	a	a	...	a	n	a	...	a	a	n	a	a	a	a	a	a	a	...
James	a	a	a	n	n	n	n	a	n	...	n	n	n	a	a	a	a	a	a	n	n	n	n	a	a	n	n	n	a	a	...
Janssen	n	n	a	n	n	n	a	n	n	n	a	n	n	a	a	a	a	n	a	a	n	a	n	n	a	n	n	n	a	a	...
Jenkins	a	a	n	n	n	n	n	a	n	n	n	...	n	n	n	a	a	n	a	a	n	n	n	a	...	n	...	...	n	n	...
Judd	n	n	a	a	a	a	a	a	n	a	n	n	n	n	a	n	a	n	a	n	a	n	a	n	...	n	n	n	n	a	...
Kellogg	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Kern	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Kinne, A.	n	a	a	n	a	n	n	a	n	a	a	n	a	n	a	n	a	a	n	n	a	n	n	...	...	...	...	...	...	...	...
Kinney, J.	a	a	a	a	n	...	...	a	n	n	a	n	a	a	a	n	a	a	a	...	a	a	...	a	a	n	n	n	n	n	...
Lovell	a	a	a	n	a	...	...	a	n	n	a	n	a	a	a	n	a	a	...	...	...	...	...	n	a	a	a	a	...	n	...
Madden	a	...	a	...	n	n	n	a	...	n	n	n	n	n	a	...	...	...	a	...	n	...	...	a	a	...	...	a	...	...	...
Magone	n	n	n	a	a	n	n	n	n	n	n	n	n	n	n	a	a	n	a	a	a	n	n	a	n	n	n	n	a	a	...
Manahan	n	...	n	n	a	n	n	a	n	n	a	n	a	n	a	n	a	a	n	n	a	n	a	n	n	n	n	n	n	a	...
Meeker	n	a	a	n	n	a	a	a	n	n	n	n	a	n	n	n	a	n	a	a	n	...	n	a	a	n	n	n	a	n	..
Mills	...	...	a	a	n	n	n	a	n	a	a	n	a	a	a	a	a	a	a	a	n	n	n	n	n	n	n	n	n	n	...
Moore	n	a	n	a	a	n	n	a	a	n	a	a	a	a	a	a	a	a	n	...	...	a	n	n	...	n	n	n	n	n	...
Noggle	n	a	a	a	a	n	n	a	n	a	a	n	n	n	a	a	a	n	a	...	...	n	n	n	...	n	n	a	n	n	...
O'Connor	n	n	...	...	a	...	...	a	n	a	a	n	n	n	a	n	a	n	a	a	n	n	n	n	a	n	n	n	...	a	...
Parkinson	a	a	a	n	n	...	...	...	...	...	...	...	n	a	a	...	...	...	...	...	...	...	...	...	...	...	...	...	n	n	...
Parks	a	n	...	...	a	n	n	n	n	n	n	a	n	a	a	n	a	a	a	n	n	a	n	n	n	...	...	...	...	...	...
Parsons	...	a	a	a	n	n	n	a	n	n	a	n	n	a	a	a	a	n	a	n	a	n	a	n	a	n	n	n	n	n	...
Patch	n	a	...	a	a	...	...	a	n	n	a	n	a	n	a	...	...	a	a	n	a	...	a	n	...	n	n	...	...	n	...
Phelps	a	n	...	...	...	...	...	a	a	n	n	n	n	n	n	n	n	n	a	n	n	n	n	n	...	n	n	n	n	n	...
Pierce	a	a	...	...	...	...	...	a	n	n	n	n	n	n	n	...	...	...	...	...	...	...	...	n	a	n	a	n	n	n	...
Prentiss	n	a	n	a	a	n	n	n	n	n	a	a	a	a	a	n	...	...	...	a	n	n	n	n	...	n	n	n	...	...	...
Randall	n	a	...	a	a	...	...	n	a	n	a	a	a	n	a	n	a	n	n	n	a	a	n	n	n	n	n	n	a	a	...
Rankin	n	n	a	a	a	n	n	n	n	a	a	n	a	n	a	n	a	a	...	n	a	n	a	n	n	n	n	n	n	n	...
Reed	a	a	a	a	a	n	...	a	n	n	n	a	n	a	a	n	a	a	a	n	n	a	n	n	n	n	n	n	...	...	...
Rogan	n	a	..	a	a	n	n	n	n	a	a	n	n	a	a	■	a	a	a	n	a	n	a	...	...	...	...	...	n	a	...
Ryan	a	a	a	n	n	n	n	a	n	n	...	n	n	a	a	a	a	a	a	a	n	n	a	a	a	a	a	a	n	n	...
Seaver	a	a	n	a	a	n	a	a	n	a	a	n	a	a	a	n	a	a	a	n	a	n	a	n	n	n	n	n	n	n	...
Smith, A. H.	a	a	a	n	n	n	n	a	n	n	n	n	n	n	a	n	a	n	a	...	n	n	n	n	a	a	a	a	...	...	...
Smith, G. B.	n	n	...	a	...	...	...	n	...	...	n	...	n	n	n	...	...	...	...	...	...	...	...	n	a	...	n	n	n	...	...
Smith, J. Y.	a	...	...	...	...	...	...	a	n	...	..	..	...	...	...	...	...	...	...	...	...	...	...	n	...	a	a	a	n	n	...
Smith, S.	a	a	n	a	a	n	n	a	n	a	a	n	n	a	a	a	a	a	n	n	a	n	a	n	a	a	a	a	a	a	...
Smith, W. R.	n	a	a	n	n	n	n	a	n	n	n	n	a	n	n	n	a	n	a	n	a	n	a	a	a	n	n	n	a	a	...
Soper	a	a	a	a	a	n	n	a	n	n	n	n	n	a	a	a	...	a	a	...	n	n	a	a	a	...	...	a	...	n	...
Steele	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Stockwell	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Strong, Mar.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Strong, Moses	a	...	a	n	a	n	n	a	n	n	a	n	n	a	a	a	a	a	a	...	n	n	a	a	a	a	a	...	...	...	...
Toland	...	a	n	a	a	n	n	n	n	n	n	n	n	n	a	n	a	a	n	...	n	n	n	n	a	...	n	n	a	a	...
Topping	a	...	n	a	a	n	a	a	n	a	a	...	a	n	n	...	...	...	...	...	...	...	...	...	n	n	n	n	...	a	...
Turner	n	n	n	n	a	n	a	n	n	...	a	n	n	a	a	n	n	a	n	n	a	a	n	n	a	n	n	n	...	...	...
Tweedy	n	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Upham	n	a	a	n	a	n	a	n	n	a	a	n	a	a	a	...	...	a	...	...	n	n	n	n	a	...	n	n	...	n	...
Vineyard	a	a	...	...	...	n	n	a	n	n	n	n	n	n	a	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Vliet	n	a	a	n	a	n	n	n	n	n	n	n	a	n	n	a	a	n	a	...	a	...	...	...	...	...	...	...	...	...	...
Wakeley	a	a	a	a	a	n	n	a	n	n	a	n	a	a	a	a	a	a	a	n	n	a	n	n	a	a	n	n	n	n	...
White	a	a	a	a	n	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Whiteside	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Willard	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wilson	...	...	a	a	n	n	n	a	n	a	a	n	n	n	n	n	a	n	a	n	...	...	...	n	...	n	n	n	a	a	...

APPENDIX II

THE CONSTITUTION OF 1846

PREAMBLE

The Constitution of the State of Wisconsin, adopted in Convention at Madison, on the sixteenth day of December, in the year of our Lord one thousand eight hundred and forty-six, and of the independence of the United States, the seventy-first.

We, the people of Wisconsin, acknowledging with gratitude the grace and beneficence of God in permitting us to make choice of our form of government, having the right of admission into the Union as a member of the Confederacy, consistent with the Constitution of the United States and the ordinance of Congress of one thousand seven hundred and eighty-seven, believing that the time has arrived when our present political condition ought to cease, and the right of self-government to be asserted; and, in order to establish justice, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do mutually agree with each other to form ourselves into a free and independent state, by the name of the State of Wisconsin, and do ordain and establish this constitution for the government thereof.

ARTICLE I

ON BOUNDARIES

Section 1. It is hereby ordained and declared that the state of Wisconsin "doth consent to and accept of the boundaries" prescribed in the act of Congress entitled "An Act to enable the people of Wisconsin Territory to form a constitution and state government, and for the admission of such state into the Union," approved August sixth, one thousand eight hundred and forty-six: *Provided*, however, That the following alteration of the aforesaid boundary be and hereby is proposed to the Congress of the United States as the preference of the state of Wisconsin, and if the same shall be assented and agreed to by the Congress of the United States, then the same shall be and forever remain obligatory on the state of Wisconsin, viz., Leaving the aforesaid boundary line at the first rapids in the river St Louis, thence in a direct line southwardly to a point fifteen miles east of the most easterly point in Lake St. Croix, thence due south to the main channel of the Mississippi River or Lake Pepin; thence down the said main channel

of Lake Pepin and the Mississippi River as prescribed in the aforesaid boundary.

Sec. 2. This ordinance is hereby declared to be irrevocable without the consent of the United States.

ARTICLE II

ON THE ACT OF CONGRESS FOR ADMISSION OF THE STATE

Section 1. The propositions of the Congress of the United States, as made and contained in their act of the sixth day of August, one thousand eight hundred and forty-six, entitled "An Act to enable the people of Wisconsin Territory to form a constitution and state government and for the admission of such state into the Union," are hereby accepted, ratified, and confirmed: *Provided*, nevertheless, That nothing in this constitution or in the act of Congress aforesaid shall in any manner prejudice or affect the right of the state of Wisconsin to five hundred thousand acres of land granted to said state and to be hereafter selected and located by and under the act of Congress of the United States, entitled "An Act to appropriate the proceeds of the sales of the public lands and grant preëmption rights," approved September fourth, one thousand eight hundred and forty-one.

Sec. 2. The state shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to bona fide purchasers thereof; and no tax shall be imposed on land the property of the United States; and in no case shall nonresident proprietors be taxed higher than residents.

ARTICLE III

ON THE EXECUTIVE OF THE STATE

Section 1. The executive power shall be vested in a governor, who shall hold his office for two years; a lieutenant governor shall be elected at the same time and for the same term.

Sec. 2. No person except a citizen of the United States and a qualified elector of this state shall be eligible to the office of governor or of lieutenant governor.

Sec. 3. The governor and lieutenant governor shall be elected at the times and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant governor shall be elected, but in case two or more shall have an equal and the highest number of votes for governor or for lieutenant governor, the two houses of the legislature at its next annual session shall forthwith by joint ballot choose one of the said persons so having an equal and the highest number of votes for governor or lieutenant governor. The returns of election for governor and lieutenant governor shall be made in such manner as shall be prescribed by law.

Sec. 4. The governor shall be commander-in-chief of the military and naval forces of the state. He shall have power to convene the legislature on extra-

ordinary occasions. He shall communicate by message to the legislature at every session the condition of the state and recommend such matters to them for their consideration as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature and shall take care that the laws are faithfully executed.

Sec. 5. The governor shall receive as a compensation for his services, annually, the sum of one thousand dollars.

Sec. 6. The governor shall have power to grant reprieves and pardons after conviction for all offenses except treason and cases of impeachment. He may commute sentence of death to imprisonment in a state prison for life. He may grant pardons upon such conditions and with such restrictions and limitations as he may think proper. Upon convictions for treason, he shall have power to suspend the sentence until the case shall be reported to the legislature at its next session. He shall communicate to the legislature, by message, each case of reprieve, commutation, and pardon by him granted since the next previous session of the legislature, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date and conditions of the commutation, pardon, or reprieve.

Sec. 7. In case of the impeachment of the governor, or his removal from office, death, inability from mental or physical disease, resignation, or absence from the state, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the governor, absent or impeached, shall have returned or the disability shall cease. But when the governor shall with the consent of the legislature be out of the state in time of war, at the head of the military force thereof, he shall still continue commander-in-chief of all the military force of the state.

Sec. 8. The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If, during a vacancy of the office of governor the lieutenant governor shall be impeached, displaced, resign, die, or, from mental or physical disease become incapable of performing his duties, or be absent from the state, the secretary of state shall act as governor until the vacancy shall be filled or the disability shall cease.

Sec. 9. The lieutenant governor shall receive double the per diem of members of the senate for every day's attendance as president of the senate, and the same mileage as shall be allowed to members of the legislature.

Sec. 10. The governor and lieutenant governor or either of them shall not, during the term for which he or they are elected, hold any other office of trust, honor, profit, or emolument under this state or the United States, or any other state of the Union, or of any state or foreign government.

Sec. 11. Every bill which shall have passed the legislature shall before it becomes a law be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent together with the objections to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present, it shall become a law.

But in all cases the votes of both houses shall be determined by "yeas" and "nays," and the names voting for and against the bill shall be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law unless the legislature shall by their adjournment prevent its return, in which case it shall not be a law.

ARTICLE IV

ADMINISTRATIVE

Section 1. A secretary of state, who shall ex officio be the auditor, a treasurer, and an attorney general shall be elected at the times and places of choosing governor and lieutenant governor, and shall hold their offices for the term of two years.

Sec. 2. The secretary of state shall keep a fair record of the official acts of the legislative and executive departments of the state, and shall when required lay the same and all matters relative thereto before either branch of the legislature; and shall perform such other duties as shall be assigned him by law. He shall receive as a compensation for his services, yearly, such sum as shall be provided by law, not exceeding one thousand dollars, and shall keep his office at the seat of government.

Sec. 3. The powers and duties of the treasurer and attorney general shall be prescribed by law. Each of said officers shall receive as a compensation for his services, yearly, a sum to be prescribed by law.

Sec. 4. The legislature shall not grant or allow to any officer named in this article any extra compensation under any pretense, or in any form whatever.

ARTICLE V

ON THE CONSTITUTION AND ORGANIZATION OF THE LEGISLATURE

Section 1. The legislative power shall be vested in a senate and house of representatives.

Sec. 2. The number of the members of the house of representatives shall never be less than sixty, nor greater than one hundred and twenty. The senate shall consist of a number of members not greater than one-third nor less than one-fourth of the number of the members of the house of representatives.

Sec. 3. The legislature shall provide by law for an enumeration of the inhabitants of this state in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter, and shall also provide for such enumeration in the year one thousand eight hundred and forty-eight; and at their first session after each enumeration so made as aforesaid, and also after each enumeration made by the authority of the United States, the legislature shall apportion anew the representatives and senators among the several districts according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy.

Sec. 4. Until there shall be a new apportionment of the senators and members of the house of representatives, the state shall be divided into senatorial

and representative districts as follows, and the senators and members of the house of representatives shall be apportioned among the several districts as follows, viz:

The county of Brown shall constitute the first representative district, and shall be entitled to one representative.

The county of Calumet shall constitute the second representative district, and shall be entitled to one representative.

The county of Manitowoc shall constitute the third representative district, and shall be entitled to one representative.

The county of Marquette shall constitute the fourth representative district, and shall be entitled to one representative.

The county of Winnebago shall constitute the fifth representative district, and shall be entitled to one representative.

The county of Sheboygan shall constitute the sixth representative district, and shall be entitled to one representative.

The county of Fond du Lac shall constitute the seventh representative district, and shall be entitled to two representatives.

The county of Columbia shall constitute the eighth representative district, and shall be entitled to one representative.

The county of Sauk shall constitute the ninth representative district, and shall be entitled to one representative.

The county of Washington shall constitute the tenth representative district, and shall be entitled to four representatives.

The county of Dodge shall constitute the eleventh representative district, and shall be entitled to four representatives.

The county of Milwaukee shall constitute the twelfth representative district, and shall be entitled to eight representatives.

The county of Waukesha shall constitute the thirteenth representative district, and shall be entitled to six representatives.

The county of Jefferson shall constitute the fourteenth representative district, and shall be entitled to five representatives.

The county of Dane shall constitute the fifteenth representative district, and shall be entitled to four representatives.

The county of Racine shall constitute the sixteenth representative district, and shall be entitled to ten representatives.

The county of Walworth shall constitute the seventeenth representative district, and shall be entitled to six representatives.

The county of Rock shall constitute the eighteenth representative district, and shall be entitled to five representatives.

The county of Green shall constitute the nineteenth representative district, and shall be entitled to one representative.

The county of Iowa shall constitute the twentieth representative district, and shall be entitled to seven representatives, *Provided*, That whenever the said county of Iowa shall be divided and two new counties shall be organized out of the same, then the northern of said two new counties shall be entitled to three representatives and the southern of said two new counties shall be entitled to four representatives.

The county of Grant shall constitute the twenty-first representative district, and shall be entitled to five representatives.

The counties of Crawford and Richland shall constitute the twenty-second representative district, and shall be entitled to one representative.

The counties of St. Croix and Chippewa shall constitute the twenty-third representative district, and shall be entitled to one representative.

The county of LaPoint shall constitute the twenty-fourth representative district, and shall be entitled to one representative.

The county of Portage shall constitute the twenty-fifth representative district, and shall be entitled to one representative.

The counties of Brown, Calumet, Winnebago, Fond du Lac, Manitowoc, and Sheboygan shall constitute the first senatorial district, and shall be entitled to one senator.

The counties of Marquette, Columbia, Portage, Sauk, Richland, Crawford, Chippewa, St. Croix, and La Point shall constitute the second senatorial district, and shall be entitled to one senator.

The county of Washington shall constitute the third senatorial district, and shall be entitled to one senator.

The county of Dodge shall constitute the fourth senatorial district, and shall be entitled to one senator.

The county of Milwaukee shall constitute the fifth senatorial district, and shall be entitled to two senators.

The county of Waukesha shall constitute the sixth senatorial district, and shall be entitled to two senators.

The county of Jefferson shall constitute the seventh senatorial district, and shall be entitled to one senator.

The county of Dane shall constitute the eighth senatorial district, and shall be entitled to one senator.

The county of Racine shall constitute the ninth senatorial district, and shall be entitled to two senators.

The county of Walworth shall constitute the tenth senatorial district, and shall be entitled to two senators.

The county of Rock shall constitute the eleventh senatorial district, and shall be entitled to two senators.

The county of Green shall constitute the twelfth senatorial district, and shall be entitled to one senator.

The county of Iowa shall constitute the thirteenth senatorial district, and shall be entitled to two senators: *Provided*, That whenever the said county of Iowa shall be divided and two new counties shall be organized out of the same, then the northern of said two new counties shall be entitled to one senator and the southern of said two new counties shall be entitled to one senator.

The county of Grant shall constitute the fourteenth senatorial district, and shall be entitled to two senators.

Sec. 5. The representatives shall be chosen annually on the day of the general election, by the qualified electors of the several districts; the senators shall be chosen biennially for two years, at the same time and in the same manner as the representatives are required to be chosen.

Sec. 6. Senators and representatives shall be qualified electors in the respective districts which they represent, and shall have resided at least one year in the state.

Sec. 7. No person holding office under the United States, postmasters excepted, shall be eligible to a seat in either branch of the legislature of this state.

Sec. 8. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may compel the attendance of absent members, in such manner and under such penalties as each house may provide. Each house shall choose its own officers.

Sec. 9. Each house shall determine the rules of its proceedings and judge of the qualifications, elections, and returns of its own members; may punish for contempts, and its members for disorderly behavior; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause.

Sec. 10. No senator or representative in the legislature of this state shall, during the time for which he was elected, or during one year after the expiration thereof, be appointed or elected to any civil office under the authority of this state, which shall have been created or the emoluments whereof shall have been increased during the time for which he was elected.

Sec. 11. Senators and representatives shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest, nor shall they be subject to any civil process during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

Sec. 12. The legislature shall meet at the seat of government on the second Thursday of January in every year, and at no other period, unless otherwise directed by law or provided for in this constitution.

Sec. 13. The governor shall issue writs of election to fill such vacancies as may occur in the senate or house of representatives.

Sec. 14. The style of the laws of this state shall be "It is enacted by the legislature of the state of Wisconsin, as follows, viz:"

Sec. 15. Each member of the legislature shall receive for his services two dollars for each day's attendance during the first forty days of any session, and one dollar for each day's attendance during the remainder of such session, and ten cents for every mile he shall travel in going to and returning from the place of meeting of the legislature, to be computed by the most usually traveled route.

ARTICLE VI

ON THE POWERS, DUTIES, AND RESTRICTIONS OF THE LEGISLATURE

Section 1. Each house shall keep a journal of its proceedings and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall without the consent of the other adjourn for more than two days.

Sec. 2. Any bill may originate in either house of the legislature, and all bills passed by one house may be amended by the other; and on the final passage of all bills the vote shall be by ayes and noes and shall be entered on the journal.

Sec. 3. The legislature may confer upon the boards of supervisors of the several counties of the state such powers of local legislation and administration as they shall from time to time prescribe.

Sec. 4. No private or local bill which may be passed by the legislature shall embrace more than one subject, and that shall be expressed in the title.

Sec. 5. The legislature shall never grant extra compensation to any public officer, agent, servant, or contractor after the service shall have been rendered or the contract entered into.

Sec. 6. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall before they enter upon the duties of their respective offices take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm as the case may be) that I will support the Constitution of the United States and the Constitution of the state of Wisconsin and that I will faithfully discharge the duties of the office of .....according to the best of my ability."

Sec. 7. The legislature shall never authorize any lottery.

Sec. 8. One fifth of the members present of each house shall be entitled to call for the ayes and noes on any question and to have the same entered upon the journal.

Sec. 9. The legislature shall establish but one system of town and county government, which shall be uniform as near as may be throughout the state.

Sec. 10. The legislature shall direct by law in what manner and in what courts suits may be brought against the state.

ARTICLE VII

ON THE ORGANIZATION AND FUNCTIONS OF THE JUDICIARY

Section 1. The court for the trial of impeachments shall be composed of the senate. The house of representatives shall have the power of impeaching all civil officers of this state for corrupt conduct in office or for crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. On the trial of an impeachment against the governor the lieutenant governor shall not act as a member of the court. No judicial officer shall exercise his office after he shall have been impeached until his acquittal. Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office or removal from office and disqualification to hold any office of honor, profit, or trust under this state; but the party impeached shall be liable to indictment, trial, and punishment according to law.

Sec. 2. The judicial power of this state, both as to matters of law and equity, shall be vested in a supreme court, circuit courts, courts of probate, and in justices of the peace. The legislature may also vest such jurisdiction as shall be deemed necessary in municipal courts, and shall have power to establish inferior courts in the several counties, with limited civil and criminal jurisdiction.

Sec. 3. The supreme court, except in cases otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the state; but in no case removed to the supreme court shall a trial by jury be allowed in said court. The supreme court shall have a general superintending control over all inferior courts; it shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, and other original and remedial writs, and to hear and determine the same.

Sec. 4. For the term of five years from the first election of the judges of circuit courts and thereafter until the legislature shall otherwise provide the judges of the several circuit courts shall be judges of the supreme court a majority of whom shall constitute a quorum, and the concurrence of a majority of the judges present shall be necessary to a decision.

Sec. 5. The state shall be divided into five judicial circuits, to be composed as follows: The first circuit shall comprise the counties of Racine, Walworth, Rock, and Green; the second circuit, the counties of Milwaukee, Waukesha, Jefferson, and Dane; the third circuit, the counties of Washington, Dodge, Columbia, Marquette, Sauk and Portage; the fourth circuit, the counties of Brown, Manitowoc, Sheboygan, Fond du Lac, Winnebago, and Calumet; and the fifth circuit shall comprise the counties of Iowa, Grant, Crawford, and Richland; and the counties of Chippewa, St. Croix, and La Point shall be attached to the county of Crawford for judicial purposes until otherwise provided by the legislature.

Sec. 6. The legislature may alter, increase, or diminish the number of circuits, making them as compact and convenient as may be, and bounding them by county lines; but no alteration or diminution of the number of circuits shall have the effect to remove a judge from office.

Sec. 7. For each circuit there shall be a judge chosen by the qualified electors therein, who shall hold his office for the term of five years, and until his successor shall be chosen and qualified; and after he shall have been elected he shall reside in the circuit for which he was elected. One of said judges shall be designated as chief justice, in such manner as the legislature shall provide.

Sec. 8. The circuit courts shall have original jurisdiction in all matters civil and criminal within this state not otherwise excepted in this constitution and not hereafter prohibited by law, and appellate jurisdiction from all inferior courts and tribunals and a supervisory control over the same. They shall also have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, and all other writs necessary to enforce their own jurisdiction and give them a general control over inferior courts and jurisdictions.

Sec. 9. When a vacancy shall happen in the office of a supreme or circuit judge, such vacancy shall be filled by an appointment by the governor, which shall continue until a successor is elected and qualified, and, when elected, such successor shall hold his office for a full term. No election for judges or for any single judge of the supreme or circuit court shall be held within thirty days of any general election for state or county officers.

Sec. 10. Each of the judges of the supreme and circuit courts shall receive a salary of one thousand five hundred dollars annually. They shall

receive no fees of office or other compensation than their salaries; they shall hold no other office of public trust, and all votes for either of them for any office except that of judge of the supreme or circuit court, given by the legislature or the people, shall be void. If any judge shall resign his office, he shall not be eligible or appointed to any office within two years after such resignation. No person shall be elected to the office of judge who is not a citizen of the United States, who shall not have attained the age of twenty-five years, and who shall not have resided within this state or territory two years previous to his election.

Sec. 11. The supreme court shall hold at least one term in each judicial circuit, annually, at such times and places as shall be provided by law. A circuit court shall be held in each county of this state, organized for judicial purposes, at least twice in each year. The circuit judges may hold courts for each other and shall do so when required by law.

Sec. 12. Until the legislature shall otherwise provide, the circuit judges shall interchange circuits and hold courts in such manner that no judge of either of said circuits shall hold court in any one circuit for more than one year in five successive years, except in case of vacancy, absence, or of inability or disability of one of said judges.

Sec. 13. There shall be a clerk of the circuit court chosen in each county organized for judicial purposes, by the qualified electors therein, who shall hold his office for two years, subject to removal, as shall be provided by law. In case of vacancy, the judge of the circuit shall have the power to appoint a clerk until the vacancy shall be filled by an election. The clerk of the circuit court shall perform all the duties of the office of register of deeds. On the first Monday in January and July in each year he shall make a statement, under oath, of all the fees of his office during the half year next preceding and deposit such statement in the office of the county treasurer; when the fees mentioned in such statement shall exceed the sum of seven hundred and fifty dollars, he shall pay seventy-five per centum of such excess into the county treasury. He may in all cases demand his fees in advance, and shall give such security as the legislature may require.

The supreme court shall appoint its own clerks, and the clerk of a circuit court may be appointed a clerk of the supreme court.

Sec. 14. Any judge of the supreme or circuit court may be removed from office by address of both houses of the legislature, if two-thirds of all the members elected to each house concur therein, but no removal shall be made by virtue of this section unless the party complained of shall have been served with a copy of the complaint against him and shall have had an opportunity of being heard in his defense. On the question of removal the ayes and noes shall be entered on the journals.

Sec. 15. There shall be chosen in each county by the qualified electors thereof a judge of probate, who shall hold his office for two years and until his successor is elected and qualified.

Sec. 16. The electors of the several towns at their annual town meeting and the electors of cities and villages at their charter elections shall in such manner as the legislature may direct elect justices of the peace, whose term of office shall be for two years and until their successors in office shall

be elected and qualified. They shall have civil and criminal jurisdiction coextensive with the county in which they are elected in such cases as shall be prescribed by law.

Sec. 17. Tribunals of conciliation may be established with such powers and duties as may be prescribed by law; but such tribunal shall have no power to render judgment to be obligatory on the parties, unless they agree to abide the judgment or assent thereto in the presence of such tribunal.

Sec. 18. The legislature shall have power to vest in clerks of courts or in other competent persons authority to grant such orders and do such acts as may be deemed necessary for the furtherance of the administration of justice; but in all cases the powers thus granted shall be specified and determined.

Sec. 19. "The style of all writs and process shall be 'the state of Wisconsin'; all criminal prosecutions shall be carried on in the name and by the authority of the same; and all indictments shall conclude, against the peace and dignity of the state."

Sec. 20. The legislature shall impose a tax on all civil suits commenced or prosecuted in the supreme or circuit courts, which shall be paid into the treasury of the state, and shall constitute a fund to be applied toward the payment of the salary of judges.

Sec. 21. The testimony in equity cases shall be taken in like manner as in cases at law, and the office of master in chancery shall be abolished.

Sec. 22. Any suitor in any court of this state shall have the right to prosecute or defend his suit either in his own proper person or by an attorney or agent of his choice.

Sec. 23. A district attorney shall be elected in each county organized for judicial purposes by the qualified electors therein, whose duties, compensation, and term of service shall be prescribed by law.

Sec. 24. The legislature shall provide for the speedy publication of all statute laws and of such judicial decisions made within this state as it may deem expedient. All laws and judicial decisions shall be free for publication by any person, and no general law shall be in force until published.

Sec. 25. The legislature at its first session after the admission of this state into the Union shall provide for the appointment of three commissioners, whose duty it shall be to revise, simplify, and arrange the statute laws of this state, with proposed amendments, to inquire into and ascertain the rules of practice, pleadings, forms, and proceedings most suitable to be adopted in the courts of record in this state, and to report thereon to the legislature, subject to their modification and adoption.

ARTICLE VIII

ON SUFFRAGE AND THE ELECTIVE FRANCHISE

Section 1. All male persons of the age of twenty-one years or upwards, belonging to any of the four following classes of persons, and who shall have resided in this state for one year next preceding any election authorized by this constitution or any law, shall constitute the qualified electors at such election.

1st. All white citizens of the United States.

2d. All white persons, not citizens of the United States, who shall have declared their intention to become such in conformity with the laws of Congress for the naturalization of aliens and shall have taken before any officer of this state authorized to administer oaths and filed in the office of the clerk of any court of record in this state or, in counties where there may be no court of record, in the office of the clerk of the county, an oath to support the constitution of the United States and of this state.

3d. All Indians declared to be citizens of the United States by any law of Congress.

4th. All civilized persons of the Indian blood, not members of any tribe of Indians.

Sec. 2. Whenever Congress shall dispense with a declaration of intention as a requisite to naturalization, the declaration of intention required of the second class of electors shall be made and filed in the office of the clerk of any court of record in this state.

Sec. 3. No elector shall be entitled to vote except in the district, county, or township in which he shall have actually resided for ten days next preceding such election, *Provided*, That any such elector shall be permitted to vote anywhere in the state for state officers.

Sec. 4. No person under guardianship shall be permitted to vote at any election.

Sec. 5. All votes shall be given by ballot, except for such township officers as may by law be directed or allowed to be otherwise chosen; and in all elections to be made by the legislature the members thereof shall vote viva voce; and their votes shall be entered on the journal.

Sec. 6. Electors shall in all cases except treason, felony, or breach of the peace be privileged from arrest during their attendance at elections, and in going to and returning from the same.

Sec. 7. No elector shall be obliged to do militia duty on the days of election, except in time of war, actual invasion, insurrection, or public danger; nor shall any elector on the days of election be obliged to attend any court either as a suitor, witness, or juror.

Sec. 8. No person shall be deemed to have lost his residence in this state by reason of his absence on business of the United States, or of this state.

Sec. 9. No soldier, seaman, or marine in the army of the United States shall be deemed a resident of this state in consequence of being stationed in any military or naval place within the same.

Sec. 10. It shall not be lawful for any voter directly or indirectly to make any bet or wager on any election at which he shall vote, and it shall be the duty of the legislature to prescribe as a part of the oath to be taken by any voter, that he has not directly or indirectly made any bet or wager on the election at which he offers his vote.

ARTICLE IX

ON EDUCATION, SCHOOLS, AND SCHOOL FUNDS

Section 1. The supervision of public instruction shall be vested in a state superintendent and such other officers as the legislature may direct. The state

superintendent shall be elected or appointed in such manner and for such term of office as the legislature shall direct. The legislature shall provide for filling vacancies in the office of state superintendent and prescribe his powers and duties.

Sec. 2. There shall be a state fund for the support of common schools throughout the state, the capital of which shall be preserved inviolate. All moneys that may be granted by the United States to this state and the clear proceeds of all property, real or personal, that has been or may be granted as aforesaid for educational purposes (except the lands heretofore granted for the purposes of a university) or for the use of the state where the purposes of the grant are not specified, and all moneys and the clear proceeds of all property which may accrue to the state by forfeiture or escheat shall be appropriated to and made a part of the capital of said fund. The interest on said fund, together with the rents on all such property until sold, shall be inviolably appropriated to the support of said schools annually. Provision shall be made by law for an equal and equitable distribution of the income of the state school fund amongst the several towns, cities, and districts, for the support of schools therein, respectively, in some just ratio to the number of children who shall reside in the same between the ages of five and sixteen years inclusive.

Sec. 3. Provision shall be made by law requiring the several towns and cities to raise a tax on the taxable property therein, annually, for the support of common schools in said towns and cities, respectively.

Sec. 4. The legislature shall provide for a system of common schools, which shall be as nearly uniform as may be throughout the state, and the common schools shall be equally free to all children, and no sectarian instruction shall be used or permitted in any common school in this state.

Sec. 5. The legislature shall provide for the establishment of libraries, one at least in each town and city, and the money which shall be paid as an equivalent for exemption from military duty and the clear proceeds of all fines assessed in the several counties for any breach of the penal laws shall be exclusively applied to the support of said libraries.

ARTICLE X

ON BANKS AND BANKING

Section 1. There shall be no bank of issue within this state.

Sec. 2. The legislature shall not have power to authorize or incorporate, by any general or special law, any bank or other institution having any banking power or privilege, or to confer upon any corporation, institution, person or persons any banking power or privilege.

Sec. 3. It shall not be lawful for any corporation, institution, person or persons within this state, under any pretense or authority, to make or issue any paper money, note, bill, certificate, or other evidence of debt whatever, intended to circulate as money.

Sec. 4. It shall not be lawful for any corporation within this state, under any pretense or authority, to exercise the business of receiving deposits of money, making discounts, or buying or selling bills of exchange, or to do any other banking business whatever.

Sec. 5. No branch or agency of any bank or banking institution of the United States, or of any state or territory within or without the United States, shall be established or maintained within this state.

Sec. 6. It shall not be lawful to circulate within this state after the year one thousand eight hundred and forty-seven any paper money, note, bill, certificate, or other evidence of debt whatever, intended to circulate as money, issued without this state, of any denomination less than ten dollars, or after the year one thousand eight hundred and forty-nine, of any denomination less than twenty dollars.

Sec. 7. The legislature shall at its first session after the adoption of this constitution and from time to time thereafter as may be necessary enact adequate penalties for the punishment of all violations and evasions of the provisions of this article.

ARTICLE XI

ON INTERNAL IMPROVEMENTS

Section 1. This state shall encourage internal improvements by individuals, associations, and corporations, but shall not carry on, or be a party in carrying on, any work of internal improvement, except in cases authorized by the second section of this article.

Sec. 2. When grants of land or other property shall have been made to the state, especially dedicated by the grant to particular works of internal improvement, the state may carry on such particular works and shall devote thereto the avails of such grants so dedicated thereto, but shall in no case pledge the faith or credit of the state or incur any debt or liability for such work of internal improvement.

Sec. 3. All lands which shall come to the state by forfeiture or escheat, or by grant, where the grant does not specially dedicate the same to any other object, shall be held by the state as a part of the state school fund, under the same trusts, reservations, and restrictions as are provided in this constitution in regard to school lands proper.

ARTICLE XII

ON TAXATION, FINANCE, AND PUBLIC DEBT

Section 1. All taxes to be levied in this state, at any time, shall be as nearly equal as may be.

Sec. 2. No money shall ever be paid out of the treasury of this state, except in pursuance of an appropriation by law.

Sec. 3. The credit of the state shall never be given or loaned in aid of any individual, association, or corporation.

Sec. 4. There shall be published by the treasurer, in at least one newspaper printed at the seat of government during the first week in January in each year and in the next volume of the acts of the legislature, a detailed statement of all moneys drawn from the treasury during the preceding year, for what purpose and to whom paid, and by what law authorized.

Sec. 5. There shall never be issued by or in any way on behalf of the state any scrip or other evidence of state debt, except in the cases and manner authorized in the eighth, ninth, and tenth sections of this article.

Sec. 6. This state shall never contract any public debt, unless in time of war, to repel invasion, or suppress insurrection, except in the cases and manner provided in the eighth, ninth, and tenth sections of this article.

Sec. 7. The legislature shall provide for an annual tax sufficient to defray the estimated expenses for each year; and whenever it shall happen that the expenses of the state for any year shall exceed the income of the state for such year the legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year.

Sec. 8. For the purpose of defraying extraordinary expenditures, the state may contract public debts; but such debts shall never, singly or in the aggregate, exceed one hundred throusand dollars. Every such debt shall be authorized by law for some single work or object to be distinctly specified therein; and no such law shall take effect until it shall have been passed by the vote of two-thirds of the members of each house, to be recorded by yeas and nays on the journals of each house, respectively; and every such law shall levy an annual tax sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within five years from the final passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, and such taxes shall not be repealed, postponed, or diminished until the principal and interest of such debt shall have been wholly paid.

Sec. 9. All debts authorized by the preceding section shall be contracted by loan on state bonds, of amounts not less than five hundred dollars, each, on interest, payable within five years after the final passage of the law authorizing such debt, and such bonds shall not be sold for less than par. A correct registry of all such bonds shall be kept by the treasurer in numerical order, so as always to exhibit the number and amount issued, the number and amount unpaid, and to whom severally made payable.

Sec. 10. On the final passage in either house of the legislature of any law which imposes, continues, or renews a tax, or creates a debt or charge, or makes, continues, or renews an appropriation of public or trust money, or releases, discharges, or commutes a claim or demand of the state, the question shall be taken by yeas and nays, which shall be duly entered on the journals; and three-fifths of all the members elected to each house shall in all such cases be required to constitute a quorum therein.

Sec. 11. The money arising from any loan made, or debt or liability contracted, shall be applied to the work or object specified in the act authorizing such debt or liability, or to the repayment of such debt or liability, and to no other purpose whatever.

ARTICLE XIII

ON THE MILITIA

Section 1. The militia of this state shall consist of all free, able-bodied male persons (negroes and mulattoes excepted) resident in the said state, between the ages of eighteen aad forty-five years, except such persons as now are or hereafter may be exempted by the laws of the United States, or of this state; and they shall be armed, equipped, organized, and disciplined in such manner and at such times as may be directed by law. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

Sec. 2. The militia of this state shall be divided into convenient divisions, brigades, regiments, battalions, and companies, with officers of corresponding titles and rank to command them, conforming as nearly as practicable to the general regulations of the army of the United States.

Sec. 3. Captains and subalterns in the militia, field officers of regiments, brigade inspectors, brigadier generals, and major generals shall be elected or appointed in such manner as shall hereafter be provided by law.

Sec. 4. The governor shall appoint the adjutant general and other members of his staff. Major generals, brigadier generals, and commanders of regiments and separate battalions shall respectively appoint their own staff. All staff officers may continue in office during good behavior and shall be subject to be removed by the superior officer from whom they respectively receive their appointment.

Sec. 5. All military officers shall be commissioned by the governor.

Sec. 6. The militia as divided into divisions, brigades, regiments, battalions, and companies, pursuant to the laws now in force, shall remain so organized until the same shall be altered or regulated by the legislature.

ARTICLE XIV

ON THE RIGHTS OF MARRIED WOMEN AND ON EXEMPTIONS FROM FORCED SALE

Section 1. All property, real and personal, of the wife, owned by her at the time of her marriage, and also that acquired by her after marriage, by gift, devise, descent, or otherwise than from her husband, shall be her separate property. Laws shall be passed providing for the registry of the wife's property and more clearly defining the rights of the wife thereto, as well as to property held by her with her husband, and for carrying out the provisions of this section. Where the wife has a separate property from that of the husband the same shall be liable for the debts of the wife contracted before marriage.

Sec. 2. Forty acres of land, to be selected by the owner thereof, or the homestead of a family not exceeding forty acres, which said land or homestead shall not be included within any city or village and shall not exceed in value one thousand dollars, or instead thereof (at the option of the owner) any lot or lots in any city or village, being the homestead of a family and not exceeding in value one thousand dollars, owned and occupied by any resi-

dent of this state, shall not be subject to forced sale on execution for any debt or debts growing out of or founded upon contract, either express or implied, made after the adoption of this constitution: *Provided*, That such exemption shall not affect in any manner any mechanic's or laborer's lien or any mortgage thereon lawfully obtained, nor shall the owner, if a married man, be at liberty to alienate such real estate unless by consent of the wife.

ARTICLE XV

ON EMINENT DOMAIN AND PROPERTY OF THE STATE

Section 1. The state shall have concurrent jurisdiction on the river Mississippi and on every other river and lake bordering on the said state so far as the said river or lake shall form a common boundary to the said state, and any other state or states, territory or territories now or hereafter to be formed and bounded by the same; and the said river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence and the carrying places between the same shall be common highways and forever free as well to the inhabitants of this state as to the citizens of the United States without any tax, impost, or duty therefor. No law shall be passed to take away or abridge the rights of owners to the riparian soil or land under water, unless in the same law provision is made for full compensation to such riparian owners.

Sec. 2. All lands and other property which have accrued to the territory of Wisconsin by grant, gift, purchase, forfeiture, escheat, or otherwise shall vest in the state of Wisconsin.

Sec. 3. The people of this state in their right of sovereignty are declared to possess the ultimate property in and to all lands within the jurisdiction of this state; and all lands, the title to which shall fail from a defect of heirs, shall revert, or escheat to the people.

ARTICLE XVI

BILL OF RIGHTS

Section 1. All men are born equally free and independent; all power is inherent in and all government of right originates with the people, is founded in their authority, and instituted for their peace, safety, and happiness.

Sec. 2. There shall be neither slavery nor involuntary servitude in this state otherwise than for the punishment of crimes, whereof the party shall have been duly convicted.

Sec. 3. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libel the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Sec. 4. The people shall at all times have the right in a peaceable manner to assemble together to consult for the common good.

Sec. 5. No words spoken in debate in either house of the legislature shall be the foundation of any action, complaint, or prosecution whatever.

Sec. 6. The trial by jury in all suits at law shall be preserved, but a jury trial may be waived by the parties in all civil cases, in the manner prescribed by law.

Sec. 7. No law shall be passed granting any divorce, otherwise than by due judicial proceedings.

Sec. 8. Excessive bail shall not be required; excessive fines shall not be imposed; and cruel and unjust punishment shall not be inflicted.

Sec. 9. In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury of the vicinage; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

Sec. 10. No person shall be held to answer for a capital or otherwise infamous crime unless on presentment or indictment of a grand jury, and no person for the same offense shall be twice put in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself. All persons shall before conviction be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

Sec. 11. Treason against the state shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sec. 12. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants to search any place or seize any person or thing shall issue without describing them as near as may be nor without probable cause, supported by oath or affirmation.

Sec. 13. No bill of attainder, ex post facto law, nor any law impairing the validity of contracts shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

Sec. 14. The property of no person shall be taken for public use without just compensation therefor.

Sec. 15. Foreigners who are or may hereafter become residents of this state shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens.

Sec. 16. No person shall be imprisoned for debt in this state.

Sec. 17. No religious test shall be required as a qualification for any office of public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity in consequence of his opinions on the subject of religion. The free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed in this state to all mankind.

Sec. 18. The military shall be kept under strict subordination to the civil power.

Sec. 19. The legislature shall make no law respecting the establishment of religion, nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or for the maintenance of any minister or ministry.

Sec. 20. Writs of error shall be prohibited by law.

Sec. 21. No money shall be drawn from the treasury for the benefit of religious societies or theological or religious seminaries.

ARTICLE XVII

MISCELLANEOUS PROVISIONS

Section 1. All leases or grants of agricultural land for a longer period than twenty years hereafter made, in which rent or service of any kind shall be reserved, shall be void.

Sec. 2. The political year for the state of Wisconsin shall commence on the first day of January in each year.

Sec. 3. Any inhabitant of this state who may hereafter be engaged either directly or indirectly in a duel either as principal or accessory shall forever be disqualified from holding any office under the constitution and laws of the state, and may be punished in such other manner as shall be prescribed by law.

Sec. 4. No member of Congress nor any person holding any office of profit or trust under the United States, postmasters excepted, or under any other state of the Union, or under any foreign power, no person convicted of any infamous crime in any court within the United States, and no person, being a defaulter to the United States or to this state, or to any town or county therein, or to any state or territory within the United States, shall be eligible to any office of trust, profit, or honor in this state.

Sec. 5. No person being elected or appointed to the office of governor, lieutenant governor, senator or representative in the legislature, or judge of the supreme or circuit courts shall be eligible during his term of office to any other office of trust, profit, or honor in this state.

Sec. 6. Every person elected or appointed to the office of governor, lieutenant governor, secretary of state, treasurer, attorney general, senator or representative in the legislature, or judge of the supreme or circuit courts shall be required to declare in his oath of office before he shall assume his office that he will not during the term for which he is elected or appointed to such office accept the office of senator or representative in Congress.

ARTICLE XVIII

ON AMENDMENTS AND REVISION

Section 1. Any amendment or amendments to this constitution may be proposed to this constitution in either house of the legislature; and if the same shall be agreed to by two-thirds of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journal, with the yeas and nays taken thereon; and shall be published

for three months previous to the next annual election in such manner as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the qualified electors voting thereon, such amendment or amendments shall become a part of the constitution: *Provided*, That, if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendment separately and distinctly.

Sec. 2. Every tenth year after this constitution shall have taken effect it shall be the duty of the legislature to submit to the people at the next annual election the question whether they are in favor of calling a convention to revise the constitution or not; and if a majority of the qualified electors voting thereon shall have voted in favor of a convention, the legislature shall at its next session provide by law for holding a convention, to be holden within six months thereafter; and such convention shall consist of a number of members not less than that of the house of representatives, nor more than that of both houses of the legislature.

ARTICLE XIX

SCHEDULE

Section 1. That no inconvenience may arise from a change of territorial to a permanent state government, it is declared that all rights, actions, prosecutions, judgments, claims, and contracts, as well of individuals as of bodies corporate, shall continue as if no such change had taken place; and all process which may be issued under the authority of the territory of Wisconsin, previous to its admission into the Union of the United States, shall be valid, as if issued in the name of the state.

Sec. 2. All laws now in force in the territory of Wisconsin which are not repugnant to this constitution shall remain in force until they expire by their own limitations or be altered or repealed by the legislature.

Sec. 3. All fines, penalties, or forfeitures accruing to the territory of Wisconsin shall accrue to the use of the state.

Sec. 4. All recognizances heretofore taken or which may be taken before the change of territorial to a permanent state government shall remain valid and shall pass over to and may be prosecuted in the name of the state; and all bonds executed to the governor of the territory or any other officer or court in his or their official capacity shall pass over to the governor or state authority and their successors in office for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all the estate or property, real, personal or mixed, and all judgments, bonds, specialties, choses in action, and claims, or debts of whatsoever description, of the territory of Wisconsin shall inure to and vest in the state of Wisconsin, and may be sued for and recovered in the same manner and to the same extent by the state of Wisconsin as the same could have been by the territory of Wisconsin. All criminal prosecutions and penal actions which may have arisen or which may arise, before the change from a territorial to a state government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the state. All actions at law and suits in equity which may be pend-

ing in any of the courts of the territory of Wisconsin at the time of the change from a territorial to a state government shall be continued and transferred to any court of the state which shall have jurisdiction of the subject matter thereof.

Sec. 5. All officers, civil and military, now holding their offices under the authority of the United States or of the territory of Wisconsin shall continue to hold and exercise their respective offices until they shall be superseded under the authority of the state.

Sec. 6. The first session of the legislature of the state of Wisconsin shall commence on the first Monday of November next, and shall be held at the village of Madison, which shall be and remain the seat of government until otherwise provided for by law.

Sec. 7. All county and township officers shall continue to hold their respective offices, unless removed by the competent authority, until the legislature shall in conformity to the provisions of this constitution provide for the holding of elections to fill such offices, respectively.

Sec. 8. The president of this convention shall immediately after its adjournment cause a fair copy of this constitution, together with a copy of the act of the legislature of this territory entitled "An Act in relation to the formation of a state government in Wisconsin," approved January 31, 1846, providing for the calling of this convention, and also a copy of so much of the last census of this territory as exhibits the number of its inhabitants, to be forwarded to the president of the United States, with the request of this convention in behalf of the people of Wisconsin that all said matters may be by him laid before the Congress of the United States at its present session.

Sec. 9. This constitution shall be submitted at an election to be held on the first Tuesday in April next, for ratification or rejection, to all persons who shall then have the qualifications of electors for delegates to this convention, and all persons having such qualifications at the time last aforesaid shall be entitled to vote for or against the adoption of this constitution, and for all officers to be elected under it. And if the constitution be ratified by the said electors, it shall become the constitution of the state of Wisconsin. On such of the ballots as are for the constitution shall be written or printed the word "yes," and on those which are against the ratification of the constitution the word "no." The election shall be conducted in the manner now prescribed by law, and the returns made by the clerks of the boards of supervisors or county commissioners, as the case may be, to the governor of the territory at any time before the tenth day of May next. And in the event of a ratification of this constitution by a majority of all the votes given, it shall be the duty of the governor of this territory to make proclamation of the same, and to communicate a digest of the returns to the senate and house of representatives of the state on the first day of their session. The governor shall also issue writs to the proper authorities in the several counties requiring them to cause an election to be held on the first Monday in September next, for governor, lieutenant governor, secretary of state, treasurer, attorney general, members of the state legislature, and for all officers who are elective under this constitution, except judges.

Sec. 10. Two members of Congress shall also be elected on the first Monday in September next, and until the first enumeration and apportionment shall be made as directed by this constitution; the counties of Brown, Manitowoc, Calumet, Fond du Lac, Sheboygan, Washington, Milwaukee, Waukesha, Racine, and Walworth shall constitute the first Congressional district, and elect one member; and the counties of Marquette, Winnebago, Columbia, Portage, Sauk, Dodge, Jefferson, Dane, Rock, Green, Iowa, Grant, Richland, Crawford, Chippewa, St. Croix, and La Pointe shall constitute the second Congressional district, and shall elect one member.

Sec. 11. The first election of judges of the supreme and circuit court shall be held on the second Monday of June next; and the governor of the territory shall, by the fifteenth day of May next, issue writs to the proper authorities in the several counties and districts, requiring such election to be held on the day aforesaid in their respective counties and districts.

Sec. 12. The several elections provided for in this article shall be conducted according to the existing laws of this territory; and the returns, except for township and county officers, shall be certified and transmitted to the speaker of the house of representatives, at the seat of government, in such time that they may be received on the first Monday of November next; and as soon as the legislature shall be organized the speaker of the house of representatives and the president of the senate shall, in the presence of both houses, examine the returns and declare who are duly elected to fill the several offices hereinbefore mentioned.

Sec. 13. All persons to be eligible to any office in this state shall have the qualifications of electors as specified in article "On suffrage and the elective franchise."

Sec. 14. Such parts of the common laws as have heretofore been in use in the territory of Wisconsin, not inconsistent with this constitution and the statute laws which may be in force, shall be and continue part of the law of this state until altered or suspended by the legislature.

Sec. 15. The governor, lieutenant governor, and other state officers first elected under this constitution shall enter upon the duties of their respective offices on the first Monday of November next, and shall continue in office for two years from the first day of January following, and the judges elected under this constitution shall enter upon the duties of their offices on the first day of January after such election, and their terms of office shall be for five years after said first day of January. And the governor and other territorial officers whose places are supplied by the election under this constitution shall continue in office until their successors are qualified and enter upon the duties of their office as before stated.

Sec. 16. The oaths of office may be administered by any judge or justice of the peace until the legislature shall otherwise direct.

RESOLUTIONS

Resolved, That the legislature shall at its first session pass an act forever refusing the assent of this state to the provisions of an act of Congress entitled "An Act to grant a quantity of land to the territory of Wisconsin, for the purpose of aiding in opening a canal to connect the waters of Lake

Michigan with those of Rock River," approved the eighteenth day of June, eighteen hundred and thirty-eight, and refusing the grant therein made, and refusing to assume the trusts thereby created.

Resolved, That the Congress of the United States be and is hereby requested, upon the admission of this state into the Union, so to alter the provisions of the said act of Congress, approved June eighteenth, eighteen hundred and thirty-eight, and so to alter the terms and conditions of the grant made therein that the odd numbered sections thereby granted and the proceeds of so much thereof as shall have been sold by the territory of Wisconsin may be held and disposed of by the state as part of the five hundred thousand acres of land to which the state is entitled by the provisions of an act of Congress entitled "An Act to appropriate the proceeds of the sales of the public lands and to grant preëmption rights," approved the fourth day of September, eighteen hundred and forty-one, that the even numbered sections reserved by Congress may be offered for sale by the United States for the same minimum price and subject to the same rights of preëmption as other public lands of the United States.

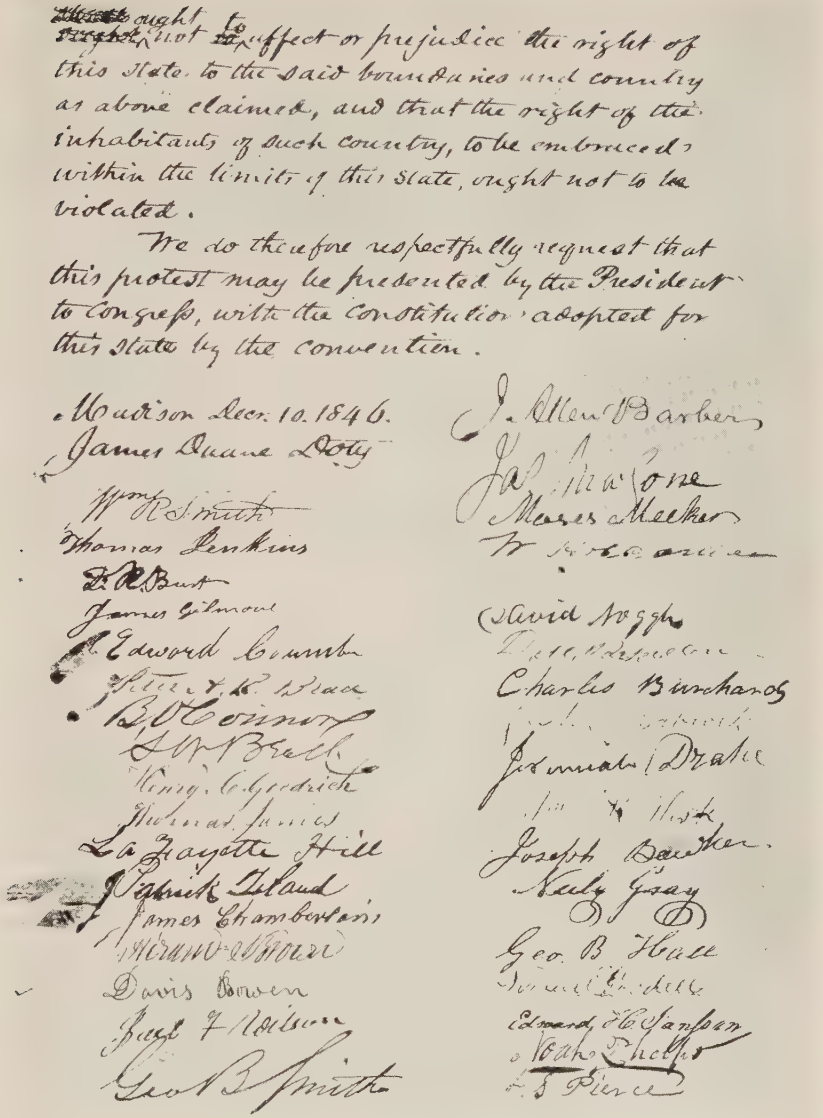
Resolved, That in case the said odd numbered sections shall be ceded to the state as aforesaid, the same shall be sold by the state, in the same manner, at the same minimum price, and subject to the same right of preëmption to occupants as the public lands of the United States are now sold, and the excess price over and above one dollar and twenty-five cents per acre, absolutely or conditionally contracted to be paid by the purchasers of any part of said sections which shall have been sold by the territory of Wisconsin, shall be remitted to such purchasers, their representatives, or assigns.

Resolved, That Congress be requested upon the admission of this state into the Union to pass an act whereby the grant of five hundred thousand acres of land, to which this state is entitled by the provisions of an act of Congress entitled "An Act to appropriate the proceeds of the sales of public lands, and to grant preëmption rights," approved the fourth day of September, eighteen hundred and forty-one and also the five per centum of the net proceeds of the public lands lying within this state, to which this state shall become entitled on her admission into the Union by the provisions of an act of Congress entitled "An Act to enable the people of Wisconsin Territory to form a constitution and state government, and for the admission of such state into the Union," approved the sixth day of August, eighteen hundred and forty-six, shall be granted to this state for the use of schools, instead of the purposes mentioned in that behalf in the said acts of Congress respectively.

Resolved, That the foregoing resolutions be appended to and signed with the constitution of this state, and submitted therewith to the people of this territory and to the Congress of the United States.

D. A. J. UPHAM, President of the Convention.
LA FAYETTE KELLOGG, Secretary.

J. Y. Smith	Fred. S. Lovell	Garrett M. Fitzgerald
And'w E. Elmore	C. H. Parsons	James B. Cartter
Asa Kinne	Stephen O. Bennett	Nathaniel Dickinson
E. G. Ryan	Daniel Harkin	John M. Babcock
A. Hyatt Smith	C. M. Baker	Francis Huebschmann


ought not to affect or prejudice the right of this State to the said boundaries and country as above claimed, and that the right of the inhabitants of such country, to be embraced within the limits of this State, ought not to be violated.

We do therefore respectfully request that this protest may be presented by the President to Congress, with the constitution adopted for this State by the convention.

Madison Dec. 10. 1846.
James Duane Doty

Wm R Smith
Thomas Jenkins
D. A. Bush
James Gilmore
Edward Coumbe
Peter V. D. Veeder
B. C. Eastman
L. W. Bleil
Henry C. Gyedrich
Richard James
La Fayette Hill
Patrick Leland
James Chamberlain
Wm W. Wood
Davis Bowen
Jacob F. Wilson
Geo. B. Smith

J. Allen Barber
J. A. Wilson
Moses Meeker
[illegible]

David Noggle
[illegible]
Charles Burchard
[illegible]
Jeremiah Drake
[illegible]
Joseph Bowker
Nathl Gray
Geo. B. Hall
[illegible]
Edward V. Swanson
Noah Nichols
[illegible]

SOME AUTOGRAPHS OF THE FATHERS

Last page of the manuscript of protest to Congress on boundaries of Wisconsin, December, 1846

Horace Chase
W. W. Graham
John Cooper
Wm. R. Hesk
Pitts Ellis
Joseph Kinney
Benj'n Fuller
Thomas James
Henry C. Goodrich
Hiram Barber
Wm. M. Dennis
LaFayette Hill
Benjamin Granger
Josiah Topping
N. E. Whiteside
Joseph Bowker
John W. Boyd
Stoddard Judd
Geo. B. Hall
Lyman H. Seaver
Nathaniel F. Hyer
James Chamberlain
Franklin Z. Hicks
David L. Mills
James Magone
John H. Manahan
J. R. Vineyard
P. A. R. Brace
David Noggle
Hiram Brown
James M. Moore
Joel F. Wilson
Hopewell Coxe
Patrick Toland
John Crawford
Garret Vliet
Sanford P. Hammond
Noah Phelps
Davis Bowen
Israel Inman Jr.
Charles E. Browne
Edward H. Janssen
Patrick Rogan
George Hyer
Elihu L. Atwood
Aaron Rankin
Samuel T. Clothier
Salmous Wakeley
Jas. P. Hays
Lorenzo Bevans
Geo. B. Smith
Horace D. Patch
Evander M. Soper
Wm. Bell
Sewall Smith
William Holcombe
Bostwick O'Connor
Edward Coumbe
Joseph S. Pierce
S. W. Beall
Wm. R. Smith
Moses Meeker
Wm. H. Clark
Lemuel Goodell
Warren Chase
Jeremiah Drake
Andrew Burnside
James Duane Doty
Wm. C. Greene
Joshua L. White

RESOLUTION

ON COLORED SUFFRAGE

Resolved, That at the same time when the votes of the electors shall be taken for the adoption or rejection of this constitution an additional section in the following words, viz: "All male citizens of the African blood possessing the qualifications required by the first section of the article on suffrage and the elective franchise shall have the right to vote for all officers and be eligible to all offices that now are or hereafter may be elective by the people after the adoption of this constitution," shall be submitted to the electors of this state for adoption or rejection in the form following, to wit: A separate ballot may be given by every person having the right to vote for the adoption of this constitution to be deposited in a separate box. Upon the ballots given for the adoption of said separate amendment shall be written or printed, or partly written and partly printed, the words, "Equal suffrage to colored persons, Yes," and upon the ballots given against the adoption of the said separate amendment, in like manner, the words, "Equal suffrage to colored persons, No," and on such ballots shall be written or printed, or partly written and partly printed, the words, "Constitution Suffrage" in such manner that such words shall appear on the outside of such ballot when folded. If, at the said election a majority of all the votes given for and against the said separate amendment shall contain the words, "Equal Suffrage to colored persons, Yes," then the said separate amendment after the adoption of this constitution shall be a separate section of article——— of this constitution, in full force and effect, anything contained in the constitution to the contrary notwithstanding.

D. A. J. Upham, President.
La Fayette Kellogg, Secretary.

APPENDIX III

BIOGRAPHICAL SKETCHES OF THE MEMBERS OF THE CONVENTION OF 1846

David Agry, the only member of the convention from the state of Maine, was born at Pittston, August 2, 1794. After graduating from Dartmouth College in 1815 he began the study of law and by 1818 was practicing in Bangor, Maine. A few years later he removed to Louisiana, practiced law at New Orleans and Shreveport, and after several years in the South made his home in New York City. In September, 1840, he removed to Green Bay. In 1842 he was elected to the territorial legislature and served until 1845. In that year he became county and probate judge for Brown, serving until 1846. In 1849 he was reëlected to the same office, which he held until his death, January 30, 1877. *Wis. Hist. Colls.*, viii, 455. Wisconsin Bar Association *Proceedings*, 1881, 86.

Elihu Lester Atwood was one of the Massachusetts men in the convention, having been born April 30, 1806, in Alford, Berkshire County. In 1836 he determined to try his fortune in Wisconsin and reached Milwaukee in August of that year. In May, 1837 he moved to his claim in the township of Lake Mills, Jefferson County. Thither his father and several brothers and sisters followed him. His sister Nancy was the first teacher at Lake Mills; his son William Henry is thought to have been the first white child born in the township. In 1841 E. L. Atwood was clerk of the school district and two years later school trustee. His legislative experience was limited to the sessions of the first constitutional convention, after which he retired to his farm at Lake Mills, where he died October 24, 1874. *Wis. Hist. Colls.*, xi, 430. *History of Jefferson County* (Chicago, 1879).

Barnes Babcock was elected to the convention as a Democrat from Muskego Township, Waukesha County, whither he had removed in 1839 from Fort Ann, Washington County, New York. He was a farmer and an influential citizen of his county, which he served as supervisor in 1855. This office and that in the convention wherein he acted on the committee on miscellaneous provisions were his only political services. He was interested in the development of his community, aided in the growth of its schools, and helped to lay the foundations of the State Agricultural Society. He died at his farm in March, 1869. *History of Waukesha County* (Chicago, 1880), 903.

JOHN M. BABCOCK, farmer, was elected as a Democrat from Dane Township, Dane County, where he had settled in 1843 upon removal from Vermont. In the convention he served on the committee on admission of the state. He died at the age of forty-nine in the year Wisconsin became a state. Tenney, Horace A., and David Atwood, *Memorial Record of the Fathers of Wisconsin* (Madison, 1880), 37.

HENRY S. BAIRD was born in Dublin, Ireland, May 16, 1800, and was in his fifth year when his father, who had been concerned in the Irish movement under Robert Emmet, emigrated to America. The Bairds lived for several years at Pittsburgh, and in 1815 removed to Ohio. Henry was destined for the law and studied in 1818 with his father's friend, S. Douglas, in Pittsburgh; the next year he entered a law office in Cleveland, to which place the family had removed. By close application young Baird impaired his health and was advised to try the climate of Mackinac. He taught school here during the winter of 1823 and in June was admitted to the bar by the newly-appointed Michigan judge, James D. Doty. The next year Mr. Baird accompanied Judge Doty to Green Bay and finding the region without a lawyer determined to settle there. Returning to Mackinac, he was married August 12, 1824, to Elizabeth Thérèse Fisher of that place, a descendant of French and Ottawa families of the early Northwest. The life at Green Bay begun by the newly married couple the following September is charmingly described by Mrs. Baird in *Wis. Hist. Colls.*, xv, 205-63. As most of Mr. Baird's clients were of French descent, his wife's services as translator and interpreter were of great value. He accompanied Judge Doty on his early tours for holding court and became acquainted with every section of the territory and with nearly all its early citizens. He obtained in a marked degree the confidence and esteem of all whom he met, and when in 1836 he was chosen member of the first territorial council, it was a natural sequence that he should be elected its president. At the close of the first or Belmont session of the legislature Governor Dodge appointed Mr. Baird the first attorney-general of the new territory, an office which he retained until March, 1839, when he resigned to attend to his private practice. In politics Mr. Baird was somewhat conservative. He belonged to the Whig party and was its candidate for governor in 1853. In the constitutional convention Mr. Baird was one of the strongest Whigs. He served on the legislative committee and was chairman for that on the organization of counties and towns. After the slavery issue grew threatening, he affiliated with the Republican party. As a rule Mr. Baird shunned political office, yielding only to a sense of duty in accepting public responsibilities. He was president of Green Bay village at the time it became an incorporated city in 1853-54, and was elected mayor in the years 1861 and 1862. In addition to the mayoralty, he rendered efficient service to the community and the nation during the troubled years of the Civil War. Again in 1871, when calamity in the shape of forest fires visited northeastern Wisconsin and relief was urgently needed, it was Mr. Baird to whom his fellow citizens turned to administer the relief fund with sympathy and impartiality.

From the time of his advent in Wisconsin Mr. Baird had been sought for advice and aid by every class in the community. Especially was he helpful to

the needy and oppressed Indians. In 1836 he was secretary of the commission that drew an important treaty with the red men at Cedar Point. Thereafter his services were in constant demand to settle the tribesmen's affairs. To the poor and destitute of the community he was ever an adviser and friend. In all that concerned Wisconsin's welfare he maintained a keen interest. He was interested in the founding of the Wisconsin Historical Society and in 1862 was elected vice president thereof, an office he held until his death. He promoted the Masonic order in Wisconsin and held many of its higher offices. He died April 30, 1875. *Wis. Hist. Colls.*, vii, 426-43. *Manuscript record.*

Charles Minton Baker, son of Robert Hall and Elizabeth Price Baker, was born October 18, 1804, in New York City. When Charles was an infant the family removed to Vermont, and there he grew up, entering Middlebury College in 1822. Owing to ill health he was obliged to leave college in 1823, and after a pedestrian tour through the eastern states he taught school for two years in Philadelphia. In 1826 he began the study of law at Troy, New York, where he passed three years in the office of Judge S. G. Huntington. In 1829 he married, and about the same time entered a law partnership with Henry W. Strong at Seneca Falls, where he practiced with a good degree of success until 1834. Then, his health again failing, he returned to Vermont and became a merchant. In 1838 Mr. Baker determined to remove to Wisconsin, whither Marshall M. Strong, brother of his former partner, had preceded him. Mr. Baker took up land near Lake Geneva and in December of that year was domiciled in the village of Geneva. He was the first lawyer in Walworth County; in 1839 he was appointed district attorney. In 1842 he was elected to the territorial council, wherein he served for four years. In politics he was a Democrat, and in the constitutional convention was chairman of the committee that prepared the judiciary provisions. His legal acumen was so great that in 1848 he was made one of the revisers of statutes for the state. In 1856 he was appointed circuit judge to fill a vacancy but refused to stand for an election. During the Civil War he efficiently aided the provost marshal in the first district. He died of apoplexy at his Geneva home, February 5, 1872. All who knew him testified to the purity of his life and character as well as to the breadth of his legal ability and judgment. *Wis. Hist. Colls.*, vi, 436-39; Reed, *Bench and Bar*, 110.

Hiram Barber was a man of means who removed from New York in 1843 to invest in Wisconsin lands. Born at Hebron, Washington County, New York, January 25, 1800, he began his business career as a merchant in Warren County of his native state. In 1829 Governor Van Buren appointed him a local judge, a position he held until his removal to the West. Having become interested in lumbering he sold out his real estate, consisting of 8,000 acres of wild land and six sawmills, and bought a considerable tract of timber and virgin land in Dodge County, Wisconsin. Thither in 1844 he removed his family, and settled two miles east of the county seat, where he led the usual life of the pioneer, clearing and planting, contending with an occasional party of Indians, and opening sawmills, whose product he sold at Milwaukee and Racine. In 1848 he built the Dodge County courthouse

and in 1849 the Juneau hotel at the place of that name. Judge Barber's election to the constitutional convention was his first political office. In politics he was a Democrat, and in the convention served on the judiciary committee. In 1848 he was candidate for governor; after his defeat he was appointed by Governor Dewey for a six-year term on the first board of University regents (1848–54). He was a member of the state assembly of 1849, served several terms as chairman of the Dodge County board of supervisors, and in 1874 ran for Congress on the Republican ticket but was unsuccessful. During his latter years Judge Barber turned his attention to manufacturing. In 1863 he removed to Horicon and bought a half interest in the Van Brunt Company, which was engaged in manufacturing seeders. In 1870 he bought out the entire concern, but three years later sold it to his son and one of the Van Brunts. After his retirement from business he continued to live in Horicon until his death at an advanced age, October 23, 1888. Judge Barber had great faith in the progress of Wisconsin and contributed not only to its economic, but also to its intellectual and social development. In addition to his services as regent of the state University he was a charter member of the Wisconsin Historical Society and one of its vice presidents from 1849 to 1853. His services in developing Dodge County are recognized by its historians. *History of Dodge County* (Chicago, 1880), 408, 655-56; H. P. Hubbell, *Dodge County, Wisconsin* (Chicago, 1913), 90.

Joel Allen Barber, who was elected to the convention as a Whig from Lancaster, was a native of Georgia, Franklin County, Vermont, and a graduate of Vermont University. After studying law two years in Maryland where in 1834, at the age of twenty-one years, he was admitted to the bar, he returned to his native state and practiced for three years at Fairfield. In 1837 he removed to Lancaster, Wisconsin, and formed a partnership with Nelson Dewey for a land and legal business. The firm soon had a large clientage in southwestern Wisconsin. Mr. Barber's services in the convention were employed on the judiciary committee, in preparation of the article that evoked so much controversy. After the convention, Mr. Barber was for many years a county supervisor; he was president of his village in 1856, 1860-62, and 1870-71. He represented his district in the assemblies of 1852, 1853, 1863, and 1864, and in the state senate of 1856–57. Originally a Free-soil Whig, Mr. Barber became one of the founders of the Republican party in the state. In 1860 he was a Lincoln elector; in 1871 he was elected to Congress and reëlected for a second term. His newspaper, the *Grant County Herald*, was always imbued with Free-soil and Republican principles. His legal practice was large. His death, which occurred June 28, 1881, removed from the community a loyal, faithful citizen. C. N. Holford, *History of Grant County* (Lancaster, 1900), 111-13.

Samuel Wotton Beall was born September 26, 1807, at Montgomery, Prince George County, Maryland. He graduated in 1824 from Union College, and after studying law at Litchfield was admitted to the bar at the age of nineteen. In 1827 he married Elizabeth Fennimore Cooper, niece of the novelist; the same year the young couple removed to Green Bay, Wisconsin,

where in 1835 Mr. Beall was appointed receiver of the first land office opened in eastern Wisconsin. By 1837 he had acquired a vast estate in land, and returned to Cooperstown, New York, to make his home. The panic of 1837 having disarranged investments, the Bealls returned two years later to Wisconsin, settling in 1842 at Taycheedah, near Fond du Lac. Before leaving Green Bay Mr. Beall inherited from his mother a Maryland estate comprising thirty slaves; these he freed and devoted the entire proceeds of the estate to their support. Mr. Beall as a liberal Democrat was one of the five members of both constitutional conventions. In the first he represented Marquette, in the second, Fond du Lac County. In both he served on committees concerning general provisions. As the second lieutenant governor of the state, he presided in the senate with much ability. After the close of his term he aided the Stockbridge Indians in bringing their case before Congress and in securing a settlement of their land claims. For some years thereafter Mr. Beall practiced law and in 1859 visited Colorado where he is said to have been a founder of the city of Denver. Upon the outbreak of the Civil War he enlisted as a private and rapidly rose to the rank of lieutenant colonel of the Eighteenth Wisconsin. He was wounded at the battle of Shiloh, but recovered sufficiently to participate in the seige of Vicksburg. During the latter years of the war Colonel Beall was in command of the Confederate prisoners at Elmira, New York. At the close of the war he received a federal commission for service in Montana, and while discharging the duties with which he was entrusted was shot and killed on September 26, 1868, at Helena. *Manuscript record.*

William Bell of Walworth County was born in 1806 in Berne, Albany County, New York. He received a common school education and taught for a few years in his native state. In 1828 he removed to Albany where he learned the carpenter's trade and was employed as a builder until in 1837 he removed to Walworth County, Wisconsin. He was the first justice of the peace, the first postmaster of his district, and the first county assessor. In politics Mr. Bell was a Democrat, and in the convention was a member of the committee on the legislature. He gave two sons to the army during the Civil War. At its close he sold his farm and removed to Elkhorn, whence in 1870 he went to Lawrence, Kansas. There he was interested in horticulture and aided the State Horticultural Society. He died at his Kansas home November 8, 1876. He was a man of independent thought in both religion and politics, a sturdy patriot, and an excellent citizen. *History of Walworth County* (Chicago, 1882), 798.

Stephen O. Bennett was a native of Milton, Saratoga County, New York, where he was born in 1807. In his boyhood he removed to New Haven, Connecticut, where he prepared for college, but his eyesight failing, he became a merchant, first at Albany and later at New York City. In 1832 Mr. Bennett removed to Ohio, and in 1840 settled on a farm in Mount Pleasant Township, Racine County, Wisconsin. In politics he was a Free-soil Democrat; as such he was chosen to the convention, wherein he served on the committee on amendments. Later he became a Republican. Mr. Bennett

was a member of the state assembly in 1850, and of the senate in 1851-52. In 1859 he sold his farm and removed to Kalamazoo, Michigan, where he resumed his earlier career as a merchant. His death occurred suddenly May 24, 1886, while away from home, at Chicago, Illinois. *Manuscript record.*

William Berry, of Walworth County, was the oldest member of the convention. Born December 20, 1780, at Salem, Massachusetts, he removed in early manhood to Madison County, and later to Cortland County, New York. In the latter county he served in the judiciary and acquired the title Judge Berry. In 1843 he removed to Wisconsin settling at Honey Creek in Walworth County, which he represented as a Democrat in the convention and where he died the year Wisconsin became a state. Mr. Berry was justice of the peace at Honey Creek; he was a Mason and aided in forming a lodge at Madison. *Manuscript record.*

Lorenzo Bevans, who was elected to the convention from Platteville, Grant County, was born in New York in 1805. He was by profession a lawyer, but came to Wisconsin in 1834 to prospect for lead. In 1836 he was admitted to the local bar. He became fascinated with mining, and finally after much prospecting, in 1844 discovered a lode that made him rich. Mr. Bevans was one of the few Democrats elected from Grant County to the convention in which he was a member of the committee on municipal corporations. He also served as justice of the peace and held some minor local offices in Grant County until his death in 1849. His legal ability would seem not to have been unusual but he was a useful member of the convention. Wisconsin Bar Association *Proceedings*, 1881, 190.

Davis Bowen, from western Pennsylvania, came of ancestors that held the frontier during the Revolution and the succeeding Indian wars. He was born at the "Forks of Cheat" May 25, 1795, the year of the Treaty of Greenville. In 1836 he sold his Fayette County, Pennsylvania, farm, and the next spring settled on a large farm in Green County, Wisconsin. He was a successful farmer, a staunch Democrat, and a loyal Baptist. In the convention he was on the miscellaneous provisions committee; after the session he lived on his Green County farm until his death, May 6, 1867. *History of Green County, Wisconsin* (Springfield, Ill., 1884), 282-83.

Joseph Bowker, son of Silas Bowker of Cayuga County, New York, was born at Lock in that county, October 9, 1797. He acquired only a common school education and spent much of his younger life at Auburn, N. Y. He was married October 9, 1817. During the succeeding years he was employed as a merchant and farmer in his native state. In 1844 he removed to Wisconsin settling for a time at Lake Geneva, but soon removing to Delavan, which became his permanent home. In the convention to which he was chosen on the Democratic ticket he aided in preparing the preamble. In his home town he was justice of the peace for several years and there he died March 26, 1856. *Manuscript record.*

JOHN WILLIAM BOYD was born September 15, 1811, at Charlton, Saratoga County, New York. His early life was passed as a farmer and merchant in Cortland County. In 1844 he removed to Wisconsin and purchased a fine farm in Linn Township, Walworth County, which became his permanent home. In 1846 Governor Dodge commissioned Mr. Boyd major general of militia. He held many local offices on the county board, of which he was chairman in 1874. In 1848, 1849, and in 1858-60 he was a member of the state senate. For many years he was director, and for eight years president of the Madison Mutual Insurance Company. General Boyd was a Democrat during his early career and as such was elected to the convention wherein he was on the committee on the executive provisions. In 1856 he joined the Republican party, and thereafter gave it his hearty support. For forty-seven years he was a deacon in the Congregational Church and taught in Sunday School. A man of great probity and honor, his home was the seat of a wide hospitality, and he was one of the best known residents of Walworth County until his death, January 28, 1892. A. C. Beckwith, *History of Walworth County* (Indianapolis, 1912), ii, 989-90.

PETER A. R. BRACE was a native of New York, born about 1821. After having studied law he came West to practice and established himself at Prairie du Chien, where he was elected by the Democrats to the convention. Not long afterwards he left Prairie du Chien. His later history is not known. He was not living in 1878. Tenney and Atwood, *Memorial Record.*

HIRAM BROWN was born September 23, 1803, in Somers, Tolland County, Connecticut. At an early age he removed to central New York and was there employed on a farm and in a cotton mill. Later he taught school both in New York and in Pennsylvania. In 1836 he removed to Wisconsin and settled near the log house of his brother-in-law, John Inman, not far from Janesville. The first winter at this new home was one of serious hardships; nevertheless the pioneers persevered and in 1838 arranged a school in which Mr. Brown became the first teacher in Rock County. He was likewise deputy assessor, tax collector, and justice of the peace. In 1840 he bought land in Albany Township, Green County, and thereafter made that place his home. He was a Democrat in politics and in the constitutional convention served on the revision committee. In middle life he studied law, was admitted to the bar, but never ceased to be an agriculturist. Some time after 1877 he sold his Green County farm and removed to Nebraska, where he died at an advanced age sometime after 1884. *History of Green County, Wisconsin* (Springfield, Ill., 1884), 230-38, 283.

CHARLES E. BROWNE was born January 16, 1816, at Granville, Washington County, New York. He received a common school education. At the early age of seventeen he left home and spent two years in Troy and New York City. In 1835 he came to Chicago, where he taught school for a few months. In February, 1836, he walked to Milwaukee and soon after took up land in Granville Township, where he lived for twenty-nine years. He was school commissioner and supervisor of his township in 1840, doorkeeper of the assembly of 1841, and sergeant at arms for those of 1842 and 1843. In 1845 he

was a representative of Milwaukee in the territorial legislature. In politics Mr. Browne was a Democrat; he was elected on that ticket to the constitutional convention. In 1849 he was state commissioner of school lands. At the close of the Civil War Mr. Browne removed to Illinois, where in 1866 he was trustee of the village of Evanston. Later he was representative of the Northwestern Mutual Life Insurance Company at Grand Rapids, Michigan. He was married in New York City June 6, 1850. He died at the home of his son-in-law at Glencoe, Illinois, October 1, 1895. Wis. Hist. Soc., *Proceedings*, 1892, 37.

Charles Burchard was born January 1, 1810, at Granby, Massachusetts, a son of Jabez Burchard, a Revolutionary soldier. In early life the younger Burchard removed to western New York, where he took an active part in the formation of the Liberal party. In 1844, however, he determined to support Henry Clay; his letter conveying that decision became at the time a noted campaign document. After Clay's defeat, Mr. Burchard removed in 1845 to Wisconsin and settled at Waukesha, whence he was elected as a Whig to the constitutional convention wherein he served on the committee on the franchise. In 1853 he removed to Mayville, and the succeeding year to Beaver Dam in Dodge County. Two years later he represented his district in the state assembly. During the Civil War he was a member of the enrollment board with rank of major. He died April 1, 1879 at his home in Beaver Dam. *Wis. Hist. Colls.*, ix, 433; *History of Dodge County* (Chicago, 1880), 351-52; *Manuscript record.*

Thomas Pendleton Burnett was born September 3, 1800, in Pittsylvania County, Virginia. When a child he removed to Spencer County, Kentucky, and there fitted himself for a legal career. After being admitted to the bar he was for two years district attorney at Paris, Kentucky. In 1829 he was seriously injured during a fire in that city; after recovery he accepted the subagency for Indians at Prairie du Chien. Thither he came early in 1830, and as a subordinate to General Joseph P. Street was very active during the Black Hawk War. Mr. Burnett combined his official duties with the practice of law and therein incurred the animosity of some army officers who in 1834 secured his removal from the agency. Thereafter he gave all of his time to his practice and to the political life of the new territory. Mr. Burnett was president of the last session of the Michigan territorial legislature, which met in December, 1835, at Green Bay. He was a prominent candidate for secretary of Wisconsin Territory in 1836, but another was preferred in the councils at Washington. In 1838 he was defeated as candidate for Congressional delegate. About this time he removed to Grant County, where he lived first at Cassville and later on a farm at Patch Grove. He was the first reporter of the Wisconsin Supreme Court; about the year 1840 he made the first compilation of its decisions. In the territorial legislatures of 1845 and 1846 he was a representative from Grant County. He ran for and was elected delegate to the constitutional convention on an independent ticket. He had been in attendance but a few weeks when illness in his family summoned him home. His mother died November 1, 1846, and five days later both Mr. Burnett and his wife passed away. His death in the prime of life was a loss

to the territory. His name is perpetuated in a northwestern county of Wisconsin. Reed, *Bench and Bar of Wisconsin*, 429; State Bar Association *Proceedings*, 1881, 167-68.

Andrew Burnside was a western pioneer surveyor who had been in active service on many frontiers. He was born of Scotch parentage in 1786 in Laurens district, South Carolina. His father was a Loyalist, who had retired to Jamaica after the Revolution, but who had returned to South Carolina just before Andrew's birth. The elder Burnside died in 1798, and his widow with four sons, among whom was the father of General Ambrose E. Burnside, removed about 1813 to the new territory of Indiana, after having manumitted all their slaves. Andrew Burnside lived in several sections of Indiana, surveyed in Knox and Laporte counties, and laid out the site of Michigan City. About 1840 he began to survey in Illinois and Wisconsin, and in 1842 removed his home to Freeport in the former state. Three years later he bought a farm in Lafayette County, Wisconsin; the next year he was elected to the constitutional convention from that county as a Democrat. In that body he served on the finance committee. Later he was employed as a surveyor in northeastern Wisconsin, on Peshtigo River, and in northern Minnesota. His last years were passed at the home of his son, Captain J. O. P. Burnside of Freeport, Illinois, where he died in January, 1868. Tenney and Atwood, *Memorial Record*, 53–55; Ben Perley Poore, *Life of Ambrose E. Burnside* (Providence, 1882), 18-21; *Manuscript record.*

Daniel Raymond Burt was a Grant County pioneer landholder, having in 1835 bought 2,000 acres in Waterloo Township, where he planned to develop the water power. Mr. Burt was born of New England ancestry February 29, 1804, in Florida, Montgomery County, New York. In May, 1827 he removed to Ontario and three years later settled at Tecumseh, Michigan. From there he came to Wisconsin, where with much energy he devoted his time to opening roads and developing civilization in its southwestern portion. He built saw- and gristmills on the streams near his home, encouraged agriculture, and began maunfacturing. He served in the territorial legislatures of 1840-42 and 1847-48, usually voting with the Whigs. In 1866 he removed to Dunleith, Illinois, where he developed the Burt Machine Works, one of the largest producers of agricultural machinery. The town of Burton, in Grant County, laid out in 1876, was named for Mr. Burt. In later life he was fond of recalling the incidents of pioneer days, and enriched the histories of Grant County with his reminiscences. He died suddenly while traveling January 7, 1884, and was buried at his home in Dunleith. *History of Grant County* (Lancaster, 1900), 29-30, 719-21.

James Bruce Cartter was born January 13, 1815 at Rochester, New York, In 1834 he migrated to Michigan, whence in 1845 he removed to Kenosha County, then a part of Racine, which he represented as a Democrat in the constitutional convention. In 1848 he was colonel of a militia regiment. In 1855 Mr. Cartter removed with John F. Swift and family to the vicinity of Black River Falls, in Jackson County. The remainder of his life was passed

in Jackson County, where he died October 30, 1897. Black River Falls *Badger State Banner*, November 4, 1897; *Manuscript record.*

JAMES CHAMBERLAIN emigrated in 1817 from England, where he was born March 13, 1791. After a few years in New York City he removed to Hartford, Connecticut, and thence in 1838 to Rock County, Wisconsin. Mr. Chamberlain was a builder as well as a farmer and aided in erecting Rock County's first courthouse and several of its early bridges. In the convention he voted with the Democrats, serving on the committee on state admission. He was township supervisor in 1849, and lived an honored and useful life on his farm until his death there September 10, 1874. W. F. Brown, *History of Rock County* (Chicago, 1908), 848.

HORACE CHASE was one of Milwaukee's earliest pioneers. He was born December 25, 1810, at Derby, Orleans County, Vermont, and worked on his father's farm until he was seventeen years of age. Then, an accident in the hayfield making physical effort difficult, he began clerking in Vermont, Boston, Canada, and later in New York City. In the latter place he made the acquaintance of P. F. W. Peck, who about the year 1833 induced Mr. Chase to come to Chicago. Here he worked for John H. Kinzie and other early merchants, finally entering a partnership with Archibald Clybourn. In December, 1834 Mr. Chase made his first trip to Milwaukee, preëmpted land, and returned to Chicago. Thence in March, 1835 he removed permanently to Milwaukee, built a store at the mouth of the river, and made the south side of the future city his home. Mr. Chase was one of the Democratic delegates to the convention from Milwaukee County. He and his brother Dr. Enoch Chase were largely instrumental in the development of Milwaukee. The former was elected mayor in 1862 and served twelve years as alderman. He was a member of the first state legislature, first president of the Old Settlers' Club, and always interested in the growth and welfare of his adopted city. There he died September 1, 1886, and is buried in Forest Home Cemetery, the site of which he first traversed in 1834. James S. Buck, *Pioneer History of Milwaukee* (Milwaukee, 1876), 37-40; *United States Biographical Dictionary* (Wisconsin volume, 1877), 234-37.

WARREN CHASE was born January 5, 1813, in Pittsfield, New Hampshire. An orphan at an early age, he secured an education with much difficulty, but having a quick, original mind he thought and read widely. After five years in Michigan, Mr. Chase in 1838 brought his family to Wisconsin and settled at Southport. During the winter of 1843 the lyceum at Southport discussed the theories of the French socialist, Charles Fourier. In 1844 under the leadership of Warren Chase these theories were tested by the formation of the Wisconsin Phalanx, a coöperative community. Land was purchased for the enterprise in Fond du Lac County and the settlement of Ceresco was begun. The community was abandoned in 1850. Three years later Mr. Chase removed to Battle Creek, Michigan, then to St. Louis, from there to Santa Barbara, California, and finally to Cobden, Illinois, where he died February 25, 1891. Mr. Chase served in both constitutional conventions, in the first state senate, and in 1850 was Free-soil candidate for governor. At St. Louis in 1872 he

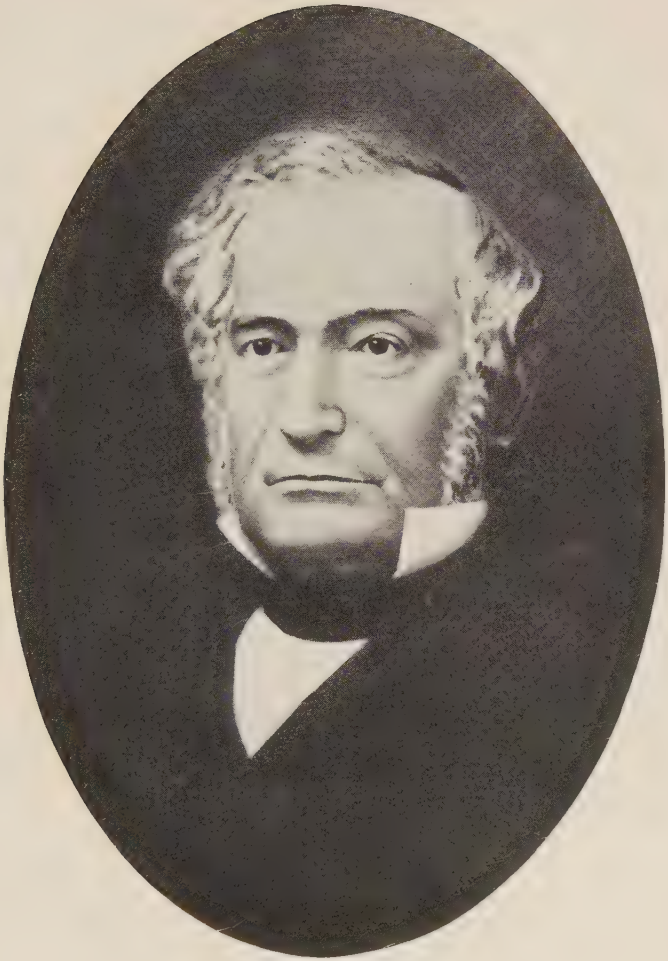
was chosen as a presidential elector; and in 1880 he was elected to the California senate. Mr. Chase was a fluent lecturer and spoke much for anti-slavery, temperance, and other reforms. He was in later life a spiritualist and always a radical in his point of view. His autobiography is entitled *Life Line of the Lone One* (Boston, 1858). S. M. Pedrick, "The Wisconsin Phalanx at Ceresco" in Wis. Hist. Soc. *Proceedings*, 1902, 190-226.

William Henry Clark was born June 16, 1812 in Madison County, New York, and educated at Hamilton Academy, where he was a fellow student with William Pitt Lynde and Harlow Orton. He removed in 1842 to Wisconsin, settled at Prairie du Sac, and there taught school during the first winter. He was a lawyer of ability, the only representative of Sauk County in the first constitutional convention. In politics he was a Democrat, and in the convention was a member of the committee on municipal corporations. He lived for many years at Baraboo; sometime in the seventies he removed to Wood County, where he died September 14, 1879, at Dexterville. State Bar Association *Report*, 1881, 257; *History of Sauk County* (Chicago, 1879), 457-58.

Samuel T. Clothier, a native of Massachusetts, as a Democrat represented the Cold Spring district of Jefferson County in the convention. In that body he was not a member of any of the standing committees. He seems to have removed soon afterward from the state, and his later history is unknown. Tenney and Atwood, *Memorial Record*.

Edward P. Coombs, who represented Richland County in the convention, was the brother of John Coombs, first permanent settler in that county. The brothers were natives of Devonshire, England. Edward emigrated to the United States before the War of 1812 and took part in that struggle for his adopted country. After the war he settled in Fayette County, Pennsylvania, whence in 1834 he came West to the lead mines and entered lands in Lancaster Township, Grant County. Mr Coombs was so well pleased with Wisconsin that the next year he brought his family, consisting of wife and six children, to their new home in Wisconsin. In 1838 John Coombs crossed the Wisconsin River and explored the Richland County region; in 1840 he persuaded his brother Edward to accompany him, and the two built the first cabin in that county. Edward Coombs never moved his family from Lancaster, but he spent part of each year at his new residence. During the winter he worked at his trades of carpentering and blacksmithing, and left near Lancaster many specimens of his skill. He died near Lancaster in March, 1849. *History of Grant County* (Chicago, 1879), 558-59; *History of Crawford and Richland Counties* (Springfield, 1884), 769-70.

John Cooper was born in 1810 in the state of New York. Some time before 1842 he removed West and settled on a farm in Greenfield Township, Milwaukee County. In 1842 he was commissioner of highways, and in 1846 was elected on the Democratic ticket to the constitutional convention wherein he was appointed to the committee on legislature. Mr. Cooper was a prominent Baptist, a pioneer member of the Greenfield Baptist church. He lived a long



James Duane Doty

From an oil portrait in the Wisconsin Historical Library

life of quiet usefulness, and died at his son's home in North Greenfield (now West Allis) early in December, 1901. *Milwaukee Journal*, December 5, 1901.

HOPEWELL COXE was born at Northumberland, Pennsylvania, June 28, 1812. At twenty years of age he began the study of law at Williamsport in the same state, and in 1838 was admitted to the bar. In 1842 Mr. Coxe removed to Kentucky and three years later sought a new home in Wisconsin Territory. A few months were spent in Milwaukee; in 1846 he settled at Cedarburg. In the autumn of that year Mr. Coxe was chosen probate judge; this office he held for eight years. During that time he was elected as a Democrat to the constitutional convention and served on the finance committee. At the expiration of his judicial term he removed to Hartford, in Washington County. Thence he was sent to the state legislature of 1857. He continued the practice of law at Hartford until his death, June 16, 1864. Mr. Coxe was recognized as a lawyer of ability, and his comparatively early death was a loss to the Wisconsin bar. State Bar Association *Proceedings*, 1881, 253.

JOHN CRAWFORD was born December 4, 1792, in Worcester County, Massachusetts, of Scotch-Irish ancestry. Early in the nineteenth century the Crawfords removed to Chester, Vermont. After his mother's death in 1810 young John left home and was for several years a sailor on the St. Lawrence and the Great Lakes. He made his home in St. Lawrence County, New York, married there in 1814, and served in the state militia, rising through the several ranks to that of major general. In 1836 General Crawford removed to Michigan City, Indiana. The same year he visited Milwaukee and became interested in a company for a lake steamboat; this steamboat he obtained at Detroit, and on June 14, 1837 arrived in it at Milwaukee. It was the first vessel to enter the river and dock as far north as the present Chestnut Street at Kilbourn's wharf. That autumn, however, the *Detroit* was wrecked off Kenosha; thereafter General Crawford was employed by Byron Kilbourn in navigating a harbor vessel. On his second visit to Milwaukee in 1837 General Crawford entered a claim for land in Wauwatosa Township, which became his permanent home. He was a member of the territorial legislature in 1846 and in that of the state in 1854. Having been elected to the constitutional convention on the Democratic ticket for Milwaukee County he was placed on the militia committee. In 1866 he was a county supervisor. In all offices he acted with fidelity and energy. He died March 25, 1881 at his home in Wauwatosa. *History of Milwaukee* (Chicago, 1881), 1639; *Manuscript record*.

THOMAS CRUSON was born in Mason County, Kentucky, December 10, 1802. At the age of twenty-two he left home for St. Louis, and two years later ascended the Mississippi to the lead-mining region, where he became one of Wisconsin's early prospectors. Early in 1827 he was at New Diggings, where he enlisted during the excitement over the Winnebago outbreak in Dodge's company of rangers. By 1829 Mr. Cruson had removed to Platteville, where three years later he married, and became one of the town's leading citizens. He was elected to the territorial assemblies of 1838, 1839, 1840, 1845, and 1846, and was also commissioner for Grant County. In politics Mr. Cruson was a Whig; in the convention he served on the amendments committee. In all

official positions he acted with prudence and ability. In 1850 he emigrated to the gold fields of California, and there in 1853 his family joined him. He died October 16, 1882, at Placerville in that state. *History of Grant County* (Chicago, 1879), 677; *Manuscript record.*

William M. Dennis was born in Rhode Island in 1810. In 1837 he came West with some capital, and after a few months in Milwaukee decided to locate at Watertown where he became the first postmaster. Mr. Dennis was elected to the convention as a Democratic delegate from Dodge County and worked energetically on the committee on education. In 1848 he was elected to the first state senate, and in 1853 was returned for the assembly. In 1854 Mr. Dennis was appointed bank comptroller for the state and held the office for four years. At the expiration of his term he became president of a Watertown bank and was for many years engaged in financial matters. In 1862 he was mayor of Watertown. His connection with the Watertown railway bond cases made him somewhat unpopular in that city, and after the Civil War he never again held public office. He died at Watertown July 18, 1882. *Wisconsin Souvenir from Johnson and Fuller* (binder's title, Madison); Wis. Hist. Soc. *Proceedings*, 1916, 279, 281, 285-87.

Nathaniel Dickinson was born December 20, 1810, at Calais, Vermont, to which place his father had removed twenty years previously from Massachusetts. The elder Dickinson was a veteran of the War of 1812. His son grew up in Vermont, became a carpenter and builder, and prosecuted his trade at Boston in 1836, and at Haverhill, New Hampshire, from 1837 to 1843. In the latter year he removed to Wisconsin and settled with his family at Burlington, Racine County. There he was justice of the peace, and town supervisor for four years, two years of this time serving as chairman. To the convention he was elected as a delegate and served on the committee on boundaries. While at Burlington Mr. Dickinson enrolled in the state militia and was commissioned captain. In 1854 he removed to Walworth County, living in Spring Prairie for six years, in Delavan for three, finally becoming a resident of Elkhorn, where he died March 14, 1883. Tenney and Atwood, *Memorial Record*, 70; *Manuscript record.*

James Duane Doty, the first United States judge in preterritorial Wisconsin, was born November 5, 1799 at Salem, Washington County, New York. In 1818 he removed to Detroit; the next year he was admitted to the territorial bar. During his residence at Detroit he was secretary of the exploring expedition undertaken in 1820 by General Cass, through Lake Superior to the headwaters of the Mississippi. The following year Mr. Doty visited Washington and was admitted to the United States Supreme Court. During his stay at Detroit he was a member of the territorial council and clerk of court. In 1823 he received the appointment of judge for the territory west of Lake Michigan, and the following year removed his family to Green Bay. His first term of court was held at Prairie du Chien, and for nine years he rode the circuit throughout what is now Wisconsin. In 1832 he was superseded because of a change in the federal administration. He was, however, soon appointed road commissioner to lay out the military road from Fort Howard

to Fort Crawford. In 1834 he was elected to the territorial council of Michigan. About that time he began to make large investments in Wisconsin land; and in 1836 he persuaded the first territorial legislature to locate the capital upon his land at Madison. Two years later Mr. Doty was elected delegate to Congress and in 1839 was reëlected for two years. At the expiration of his term he was appointed by President Tyler governor of Wisconsin, and served for three years. His career as governor was a stormy one, since he had difficulties with the legislature that almost resulted in a deadlock. After retiring from the governorship he was commissioner for holding Indian treaties. In 1846 he was a member of the first constitutional convention from Winnebago County, acting as chairman of the committee on boundaries. In 1849 he was elected to Congress from the third district of Wisconsin. Governor Doty in 1838 removed his home to what is now Fond du Lac County, settling at Taycheedah; during his incumbency as governor he lived in Madison; in 1844 he had a "Grand Loggery" built on Doty's Island, Menasha, and thither in 1845 he removed his family to the log dwelling that still stands in the present Island park. Thence in 1861 he went to Salt Lake City as superintendent of Indian Affairs; he did not remove his family to that place until 1863 when he was appointed governor of Utah. There he died June 13, 1865. *Wis. Hist. Colls.*, v, 369-77.

JEREMIAH DRAKE was one of the older members of the convention, having been born in Ulster County, New York, March 28, 1784. In early life he removed to Herkimer County and was there occupied with farming, lumbering, and milling. As a friend of Governor DeWitt Clinton, Mr. Drake was interested in the building of the Erie Canal and was superintendent of contracts for a portion of its length. In 1842 he removed to Wisconsin, settling the succeeding year at Columbus, where he operated a gristmill. In the convention he represented Columbia County as a Whig, serving actively on the committee on education. Mr. Drake rose to the rank of colonel in the state militia, and was influential in the growth of his home town of Columbus, where he died December 6, 1868. *History of Columbia County* (Chicago, 1880), 511.

ABEL DUNNING was a native of Webster, Monroe County, New York, where he was born February 17, 1811. He grew up on a farm, was married in 1838, and the next year removed to Wisconsin, where on July 7 he broke the first land in Madison Township, Dane County. He lived on his farm until his death May 13, 1881. Retiring in habit, he held only county and town offices, except for his service in the constitutional convention to which he was elected as a Democrat and wherein he served on the committee on the preamble. *History of Dane County* (Chicago, 1880), 832.

ELISHA W. EDGERTON was one of several brothers who, as pioneers of Wisconsin, assisted in building up its agricultural interests. Elisha was born June 26, 1815, at South Coventry, Connecticut. When a boy of nine years he removed to New York State, whence in 1835 he came West. After stopping a few months in Chicago he proceeded to Milwaukee, where he obtained a clerkship in Solomon Juneau's store. The next spring Mr.

Edgerton accompanied Juneau on a trading and exploring journey as far as Rock River. A year or two later he took up land for a large farm in Summit, Waukesha County, and there built up a model farm. In the convention Mr. Edgerton served on the committee on boundaries. In politics he was a Democrat, but cared more for agriculture than for public office. In 1860 he was awarded a prize by the Agricultural Society for the best farm in the state upon which he also initiated sheep raising and dairying. In 1864 he sold his farm and returned to Milwaukee, where he lived until his death, April 15, 1904. In 1863 he was elected for one term to the state legislature. For many years he was a leader in the State Agricultural Society, and was at one time its president. Milwaukee *Sentinel*, April 16, 1904.

Pitts Ellis was born February 29, 1808 in Murray, Genesee County, New York. In 1832 he migrated to Michigan, living at Niles and Tecumseh. About the year 1839 he removed to Wisconsin, settling first at North Prairie, later at Genesee in Waukesha County. In 1843 he built the first frame house in the latter place, which remained his home until his death, February 1, 1875. He was first justice of the peace for Genesee, chairman of the board of town supervisors, and a member of the territorial legislature of 1845. In the constitutional convention he served on the committee on admission, having been elected on the Democratic ticket to represent Waukesha County. Theron W. Haight, *Memoirs of Waukesha County* (Madison, 1907), 85.

Andrew E. Elmore was born in Ulster County, New York, May 8, 1814. His mother died at his birth, and the boy was brought up by an aunt, had the education the village afforded, and assisted his father in the store. When he was twenty-five years of age he determined to go West, and arrived in Milwaukee during the summer of 1839. In October he opened a trading establishment at Mukwonago, largely for Indians, whose language the young Easterner learned, and whose friend he became. Mr. Elmore remained at Mukwonago twenty-four years; he was its first postmaster, serving as such 1840-49, 1853-57; he was in the territorial assemblies of 1842 and 1843, and in the state assembly of 1860; he was chairman of the Waukesha County board of supervisors for twelve years. Mr. Elmore was in early days a Whig, and his political party was in the minority in Wisconsin. His personal popularity, however, elected him to the convention, in which he served on the committee on revision and adjustment. He was, moreover, so warm a personal friend of Governor Dodge and other leading Democrats that his advice was freely sought, and he was chosen for many positions of trust. His title, the "Sage of Mukwonago," given at first in jest, became an honored sobriquet. During his membership in the constitutional convention he was influential in securing the provision for an elective judiciary. From 1862 to 1864 Mr. Elmore served as bank register in the state bank comptroller's office, and in 1871 he was appointed on the state board of charities and reforms, a position he held for twenty-one years, and wherein he found his life work. He was influential in organizing the National Conference of Charities and Corrections and presided over its sessions in 1882. His latter years were passed at Fort Howard, whither he removed in 1863, and where

he died June 13, 1906. "Reminiscences of the Late Andrew E. Elmore" in Wis. Hist. Soc. *Proceedings*, 1910, 190-204.

Garrett M. Fitzgerald was born May 21, 1806 in Killarney County, Ireland. He came to America when quite young, and lived for some years in New York City. In 1841 he came West settling in Milwaukee County. He was a member of both constitutional conventions and in each served on the committee on education. A Democrat in politics, Mr. Fitzgerald in 1850 was a representative in the state legislature, at one time deputy sheriff for Milwaukee County, and in 1852 the county treasurer. He died at his home near Milwaukee September 24, 1859. *Manuscript record.*

Haynes French was a well-known farmer of Somers Township, Kenosha County, who early emigrated from Vermont, where he was born in 1808. As a Democrat Mr. French represented in the convention Racine County, which then included all of Kenosha. He died at his home in Somers Township about the year 1872. Tenney and Atwood, *Memorial Record*, 80.

Benjamin Fuller was born in 1799 in Warren, Litchfield County, Connecticut. He removed in 1832 to central New York, and eight years later came to Wisconsin. He passed the first winter at Lima, near Whitewater; in 1845 he settled in Rutland Township, Dane County, where he died in 1850. He represented his district in the convention as a Democrat, serving on the committee on eminent domain. Tenney and Atwood, *Memorial Record*, 80-81.

Moses S. Gibson was born in 1816, in Livingston County, New York. Coming West in 1844 he landed at Sheboygan and took the trail through the woods to Fond du Lac. There he determined to remain with his stock of goods. He represented Fond du Lac County in the convention; a Whig in politics he was active on the banking committee. In 1847 Mr. Gibson was a member of the territorial legislature. Two years later he was appointed receiver of public money for the St. Croix district. In 1850 he was one of those who laid out the town of Hudson, where he made his home. From 1855 to 1861 he was cashier of a bank at Hudson. Upon the outbreak of the Civil War he became a paymaster and was stationed during most of the war at St. Louis. In 1878 he was appointed to a clerkship in Washington, and there he passed the remainer of his life, dying about 1904. Tenney and Atwood, *Memorial Record*, 81-82; *Manuscript record.*

David Giddings was born July 24, 1806 at Ipswich, Massachusetts, his father Joshua being a kinsman of Joshua R. Giddings, the Ohio abolitionist. David was educated at the grammar school of his native place, and studied surveying and civil engineering. In 1835 he came West to carry on his profession, reaching Wisconsin via Chicago and Milwaukee. Having arrived at Green Bay July 4 of that year he was soon engaged to lay out the town of Astor. Thence he went with Franklin Hathaway to survey several townships in Racine County. In 1837 when surveying in Sheboygan County Mr. Giddings concluded to make that region his home; the next year he bought the

sawmills at Sheboygan Falls and began lumbering operations on a large scale. When the territorial road was run from Chicago to Green Bay he surveyed it gratuitously through Sheboygan County in order that it should pass through Sheboygan Falls. Mr. Giddings was a Whig in politics and was a member of the territorial legislature from 1840 to 1842, and after the organization of Sheboygan County was for two years probate judge. He was Sheboygan County's sole delegate to the first constitutional convention, wherein he served on the committee on the bill of rights. In 1863 he bought the Macy farm in Empire Township, Fond du Lac County, which at first was managed by his eldest son. In 1874 Mr. Giddings removed thither with his family and thereafter made this place his home. In 1878 he was a candidate of the Greenback party for Congress. The latter years of his long life were spent at the home of his son Howard in Sheboygan Falls. There he died October 26, 1900, at the age of ninety-four. *Portrait and Biographical Record of Sheboygan County* (Chicago, 1894), 696-99; Milwaukee *Sentinel*, October 27, 1900.

James Gilmore was born in Vermont in 1786. In early life he removed to Chautauqua County, New York, where in 1811 his son Lysander was born. In 1827 he removed his family to Grant County, Wisconsin, and opened the first farm in what is now known as Jamestown Township. The postoffice at Jamestown village, of which he was for some time postmaster, was named for Mr. Gilmore by George Wallace Jones, delegate to Congress. In 1836 Mr. Gilmore was one of three commissioners appointed to locate the seat of government of Grant County. After his services in the first constitutional convention, he was chosen to represent his district in the first state assembly. He died in 1859. *History of Grant County* (Chicago, 1881), 821.

Lemuel Goodell, who represented Calumet County as a Democrat in the convention, was born at Pomfret, Wyndham County, Connecticut, November 27, 1800. He was a farmer's boy, but at the age of fifteen left home, taught school winters, and worked on a farm summers. For a short time he kept a store at Alexandria Bay, New York; thence in 1828 he removed to Detroit where his elder brother Nathan was living. Soon after reaching Detroit Mr. Goodell ran for the office of constable and was elected. Afterwards he served as sheriff of Wayne County. About the year 1842 he came to Wisconsin and lived for several years at Green Bay. Not long before the convention Mr. Goodell bought a farm at Stockbridge, Calumet County, and there lived the remainder of his life. He was requested to stand for election to the second constitutional convention but declined to do so. In the first convention he was appointed on the committee on boundaries. In 1848 he was a member of the first state legislature, and in 1849-50 a senator. He died at his home in Stockbridge, April 9, 1897. Milwaukee *Sentinel*, April 13, 1897.

Henry C. Goodrich, a Democrat in politics, represented in the convention Portage County, then unorganized, the inhabitants of which were the Indian traders and lumbermen of Wisconsin River. Mr. Goodrich was born in 1815 in St. Lawrence County, New York. He came West about 1840, and in 1842 was a school-teacher at Belvidere, Illinois. In 1844 he went to Big Bull Falls on the Wisconsin where he began lumbering operations. In 1850,

in partnership with Patrick Fenelly, he built a large sawmill at the Falls. In the panic of 1857 he lost his property, and soon thereafter went to Belton, Texas, where he lived on a farm for fifteen years. Then, having sold his property in Texas, he removed to Grand Island, Nebraska. He died in 1884 at Omaha, and is there buried. *Manuscript record.*

ELIHU BERNARD GOODSELL was a descendant of a Connecticut family which removed to Vermont before the American Revolution; his grandfather was killed in the battle of Bennington. Elihu was born May 11, 1806 at the family home in Sheldon, Franklin County. He received a good education, and in 1832 sought his fortune in the lead mines of the West. He spent some months at Quincy and in 1833 assisted Antoine LeClaire in removing the Sauk Indians from the neighborhood of Dubuque. The next year found Mr. Goodsell prospecting in Wisconsin; he was at Mineral Point when Judge Doty held court there in the summer of 1834. Having found some promising leads in Highland, Iowa County, Mr. Goodsell bought land there, and began both mining and farming operations. He was the first settler at the present village of Highland, which in 1845 he laid out as a town, and where he was postmaster for many years. In the convention, to which he was elected as a Democrat, he served on the committee on eminent domain. He was the representative of Iowa County in the state legislatures of 1865 and 1866. He died November 22, 1880 at his home in Highland. *History of Iowa County* (Chicago, 1881), 800; *Manuscript record.*

WALLACE WILSON GRAHAM was born September 16, 1815 in Crageycroy, County Armagh, Ireland. When he was but three years old his parents emigrated to America, landing at Quebec, and soon thereafter made their home at Ashtabula, Ohio. There Wilson Graham grew up, studied law, and on August 25, 1837 was admitted to the bar. In 1838 he decided to remove to Milwaukee, where in 1840 he formed a partnership with Levi Blossom, a pioneer Milwaukee lawyer. In 1846 Mr. Graham, who was a Democrat, was elected to represent the third ward of the city in its first common council under the charter; the same year, as a delegate to the constitutional convention, he aided in determining the educational provisions of the first constitution. In 1852 Mr. Graham was a member of the state legislature; and in 1856 prosecuting attorney for Milwaukee. From 1856 to 1864 he was in partnership with D. A. J. Upham in the firm of Upham and Graham. Later he became the senior member of the firm of Graham and Koeppen; after 1885 Mr. Graham practiced alone. He died in a hospital at Milwaukee, October 13, 1898. Berryman, *Bench and Bar of Wisconsin* (Chicago, 1898), i, 577.

BENJAMIN GRANGER, who was one of the delegates from Dodge County, on the Democratic ticket, was a native of Vermont and but twenty-eight years old at the time the convention was held. In this body he was on the standing committee on the bill of rights. Mr. Granger took up land in Dodge County, probably near Hustisford, but later abandoned farming for mercantile pursuits. In 1875 he was an accountant, living in Chicago. He had died or left Chicago before 1879. Tenney and Atwood, *Memorial Record*, 87.

Neely Gray was born February 25, 1810 in Brooke County in the northwest panhandle of Virginia (now West Virginia). In childhood he removed across the border line into Pennsylvania, and there learned the trade of millwright. In 1835 he came West, and on April 4 of that year arrived with N. H. Virgin at Platteville, where he afterwards made his home. Mr. Gray's first political office was that of representative in the two territorial assemblies of 1840 and 1842. A Whig in politics he served in the convention on the corporation committee. After his experience in the constitutional convention, Mr. Gray visited California, being away from 1849 to 1852. He left his family at Madison during his absence, and upon his return settled in that city, where he conducted a storage and commission business and later in partnership with James Conklin had a coal yard. In 1866 Mr. Gray was on the board of county commissioners, but resigned before his term expired because of ill health. He passed away in Madison May 15, 1867. *History of Dane County* (Chicago, 1880), 528.

William Comstock Green was born August 26, 1802 at Berlin, Rensselaer County, New York. He lived on his father's farm until he was grown, when he removed to Wethersfield, Wyoming County, New York, and there married. In the autumn of 1839 he first visited the West, and bought land in York Township of Green County. Thither in 1840 he removed his family, and became the second settler in his township. Thence he was elected as a Democrat to the first constitutional convention, and was a member of the committee on internal improvements. In 1850 Mr. Green was assemblyman for his county, and in 1861 was elected county superintendent of schools, an office he filled very acceptably for six years. He was known to his subordinates as "Old Orthography," because of his insistence on proficiency in that subject. Mr. Green gave two sons to the service of his country, both of whom lost their lives in the Civil War. His death occurred at Monroe, August 3, 1874. *History of Green County* (Springfield, Ill., 1884), 1145.

John Hackett was elected to the convention from Beloit. His birthplace is unknown; however, in 1836, when twenty-eight years old, he removed to Wisconsin from Kelloggsville, Ohio. Mr. Hackett came to Wisconsin in the party of Caleb Blodgett, whose daughter Cordelia he had married a short time before. Mr. Blodgett bought the claim of Thiebault, the French-Canadian trader, thereby becoming the American founder of Beloit. Mr. Hackett kept store after 1837, his store building being the first merchant's establishment in Beloit. He early concerned himself with territorial politics, was a firm Democrat, and represented his district in the territorial legislatures from 1840 to 1842. In 1852 he was in the state assembly, and in 1879 was the mayor of Beloit. In 1886 he went to California to recruit his health and died at Los Angeles, February 5, 1886. His portrait is in W. F. Brown, *Rock County* (Chicago, 1908), 122.

George B. Hall was one of the earliest settlers of Lima Township, Rock County, having taken up land there in 1837. He was elected to the first constitutional convention as a Democrat. A lawyer by profession, in the con-

vention he served on the committee on boundaries. After that session he abandoned law and politics and devoted himself to agriculture. He died April 21, 1878 at Owatonna, Minnesota. Tenney and Atwood, *Memorial Record*, 89.

James H. Hall was born in 1813 in Vermont. He early removed to Racine County, Wisconsin Territory, which as a Democrat he represented in the convention, serving on the preamble committee. His home was in Waterford, Racine County, where he died October 27, 1866. Tenney and Atwood, *Memorial Record*, 89; *Manuscript record.*

Sanford Parker Hammond was born September 9, 1808 in Ellington, Tolland County, Connecticut, his mother's ancestral home. His father was from Rhode Island, and the family made their home in Cortland, New York, where the father, James Hammond, died in 1822, leaving his son but fourteen years of age to make his own way in the world. In 1838 young Hammond married, and the next year migrated to Wisconsin, settling first at Johnstown Center, Rock County, and removing five years later to Magnolia Township in the same county, where he was a pioneer settler. Mr. Hammond represented western Rock County as a Democrat in the convention in which he served on the committee on corporations. He held, thereafter, only local offices. In later life he removed to Evansville where he died October 18, 1881. Tenney and Atwood, *Memorial Record*, 89-90.

Daniel Harkin, born in 1799 in Ireland, was an early settler of what is now Kenosha County, then a part of Racine. Mr. Harkin was elected to the convention as a Democrat and was a member of the committee on schedule. After the convention Mr. Harkin bought a farm in Waldwick, Iowa County; from there in 1868 he removed to the state of Iowa, and lived at Sandyville, in eastern Warren County. He died in September, 1875 at Milo in the same county Tenney and Atwood, *Memorial Record*, 90; *Manuscript record.*

Morris Fant Hawes was born November 12, 1797 at Warwick, Orange County, New York. When very young his father removed to Steuben County, in the same state, where the son volunteered, although a mere boy, in the War of 1812. In 1818 young Hawes married at Rutland, Vermont, and with his bride started for Chautauqua County, New York, where they lived twelve years, and where their older children were born. In 1830 Mr. Hawes removed his family to Hillsdale, Michigan, where after a year or two he opened a tavern on the Detroit-Chicago road. In 1837 he determined to migrate to Wisconsin, and in August arrived in Richmond Township, Walworth County, of which he was the first settler, and which he was elected to represent as a Democrat in the constitutional convention. Mr. Hawes bought land at the Milwaukee land office in 1839, and lived on his farm until 1857, when he removed to Whitewater, and there died January 13, 1868. He was justice of the peace and county commissioner and held several local offices. Although elected to the convention he was unable to attend because of serious illness in his family. *History of Walworth County* (Chicago, 1882), 783.

James P. Hays was appointed in 1844 Indian subagent at La Pointe, where he succeeded the Rev. Alfred Brunson of Prairie de Chien. Mr. Hays came from Pennsylvania, and his salary as subagent was $750. He remained in charge of the agency until Wisconsin entered the Union. Because of the distance he had to travel, Mr. Hays was twelve days late at the convention; his mileage allowance was for six hundred miles. He was a Democrat in politics. Tenney and Atwood, *Memorial Record*, 90–91; United States *Register*, 1845-47.

Lorenzo Hazen was born in 1817 in Copenhagen, Lewis County, New York. He was one of nine brothers, several of whom became prominent citizens of Wisconsin. During the Harrison-Tyler campaign of 1840 the Hazen brothers then living in New York, formed a musical band and electioneered for the Whigs. In 1843 the brothers removed to Wisconsin, settling at Oakfield, Fond du Lac County. Lorenzo was elected as a Whig to the constitutional convention, serving on the committee on municipal corporations. During the Civil War he was in service. At its close he studied law and migrated to Medford, Steele County, Minnesota, where he served as probate judge from 1879 to 1892. In 1878 he removed to Owatonna, the county seat, and there died November 2, 1894. *Minnesota Historical Collections*, xiv, 314.

William R. Hesk was from Yorkshire, England, where he was born in 1795. In the early thirties he emigrated to America and settled for a time at Detroit. In 1836 he determined to try his fortune at Milwaukee and soon after his arrival became the first settler at the town of Menomonee Falls in northeastern Waukesha County. There he built in 1843 the first tavern, was the first postmaster, and chairman of the first town board. In the convention where he voted with the Democrats Mr. Hesk was on the committee on powers of the legislature. He was a man of much sturdy common sense, and had influence in his section of the state. In 1860 he represented Menomonee Falls in the legislature. He died at his home June 11, 1878. *Wis. Hist. Colls.*, ix, 436.

Franklin Z. Hicks was born in New York in 1818. He came to Wisconsin as a miner, settling at Fairplay, Grant County. There he was elected to the territorial legislatures of 1842 to 1845. Grant County likewise sent him to the constitutional convention where he voted with the Whigs. In 1857 Mr. Hicks platted the village of Avoca in northwestern Iowa County and the same year erected a large brick hotel at this place, through which the Milwaukee and St. Paul Railway had just been built. In 1861 he was assemblyman from Avoca. Soon afterwards he removed to Iowa. The date of his death is not known. Tenney and Atwood, *Memorial Record*, 93.

LaFayette Hill was born August 28, 1812 at Burlington, Vermont, where he grew up and had a common school education, beginning commercial life at the age of eighteen. Two years later he went to Rochester, New York, where in 1835 he married and determined to seek his fortune in the West. After a year in Chicago, he removed in the autumn of 1836 to Milwaukee. There he met some Kentucky land speculators who had just platted a town on

the Wisconsin River, in modern Columbia County. This town, which was called Kentucky City, had already received a few votes for the territorial capital. Mr. Hill was induced to purchase an interest in this site, and built there the first house in 1837. Later the village became known as Dekorra. Mr. Hill was its most prominent citizen, first postmaster, justice of the peace, on the board of supervisors, assessor, etc. His house became a well-known tavern. His popularity led to his election to the convention as a Whig, wherein he served on the committee on preamble. In 1848 Mr. Hill removed to section ten of his township, laid out a village, which he named Oshaukuta, and built there a tavern of which he was proprietor until his death July 7, 1853. *History of Columbia County* (Chicago, 1880), 509-10.

William Holcombe was born July 22, 1804 at Lambertville, New Jersey, on land upon which his ancestors, of English Quaker stock, had settled in the seventeenth century. In 1822 young Holcombe removed to Utica, New York, and seven years later to Ohio, living first at Columbus, then at Cincinnati. In 1835 he visited St. Louis. Here he became the captain of the steamboat *Olive Branch* plying between that city and Galena. Soon afterwards he removed to Galena, and from there in 1839 to the St. Croix Valley as agent for the St. Croix Falls Lumber Company. In 1846 Mr. Holcombe made his permanent home at Stillwater, whence he was elected to the convention as a Democrat. He appeared in the convention some days after it had begun and devoted himself to obtaining such a boundary as would place the St. Croix Valley without the limits of Wisconsin. His action concerning the Northwest boundary won for him a following in the new territory of Minnesota; he was a member in 1857 of its constitutional convention and first lieutenant governor (1858-60) of the new state. He was mayor of Stillwater at the time of his death, September 5, 1870. Mr. Holcombe was a Presbyterian and a strict observer of the Sabbath; when captain of river steamboats he always tied up over Sunday. He was president of the Minnesota Bible Society and of the State Sunday School Association. He was also for a time chairman of the State Normal School Board. His biography with a portrait is in *Minnesota in Three Centuries* (1908), iii, 58.

Dr. Franz Huebschmann was born in Riethnordhausen, Grand Duchy of Weimar, April 19, 1817. He was educated at Erfurt and Weimar and took his professional training at Jena where he graduated in March, 1841. The next year he emigrated to Wisconsin and settled at Milwaukee where he was the first German physician. Dr. Huebschmann was elected as a Democrat to the convention, wherein on the committee on suffrage he gave active assistance. From 1843 to 1851 he was school commissioner of Milwaukee and in 1848 a state presidential elector. Dr. Huebschmann was state senator in 1851-52, in 1862, and again in 1871-72. During President Pierce's administration (1853-57) he was superintendent of the Northern division for Indians. He also held several local offices on the Milwaukee common council and on the county board of supervisors. In 1862 he volunteered as surgeon of the Twenty-sixth Wisconsin, and after a good record was honorably discharged October 1, 1864. He died in Milwaukee March 21, 1880. Frank A. Flower, *Milwaukee* (1881), 1011.

Benjamin Hunkins was born in New York in 1810, grew up on a farm, and was twenty-eight years old when he removed to Wisconsin. He bought land in that part of Milwaukee County which was afterwards set off into Waukesha. The township, at first named Mentor, was in 1840 renamed New Berlin. Mr. Hunkin's sister was the first school-teacher in the town; he himself was town chairman in 1842. He was one of the Democratic nominees for the constitutional convention; after his election, however, he was detained from attending the earlier sessions and had no place on the standing committees. In 1860 he was a member of the state legislature from this district. Some time afterwards Mr. Hunkins removed to Nebraska and settled at Beaver Crossing in Seward County. The date of his death is not known. Tenney and Atwood, *Memorial Record*, 97.

George A. Hyer was one of the most prominent and influential members of the constitutional convention, serving on the committee on revision and adjustment, as a Democrat. He represented Aztalan Township of Jefferson County, which was his home, but during his career as editor and publisher he lived in many of the larger centers of Wisconsin's population. He was born at Fort Covington, Franklin County, New York, July 16, 1819. He was apprenticed to a printer in boyhood, and began his newspaper career on the Ogdensburgh *St. Lawrence Gazette*. He came to Wisconsin in 1836 as a surveyor, arriving July 4 of that year at Milwaukee, where he set type on its first newspaper, the *Advertiser*. The following year Mr. Hyer was mail agent between Milwaukee and Madison, and November 8, 1838 began his connection with the *Enquirer* at the latter place. In 1842 he went back to Milwaukee to publish with Josiah Noonan the *Courier*. The following year found him once more at Madison, a partner in editing the *Wisconsin Democrat*. In 1847 Mr. Hyer edited the *Rock River Pilot* at Watertown, and in 1848 he became editor of the Waukesha *Democrat*. He remained in Waukesha three years, and in 1850 represented his district in the state senate. In 1851 he established the *Commercial Advertiser* at Milwaukee which ceased publication three years later; then for two years he had an appointment in the United States land office at Superior. In 1859 Mr. Hyer was again at Madison where in 1863 he was assemblyman. He served as editor of different Madison papers, lived for a time on a farm near Beloit, and in 1867 went to Oshkosh to publish the *Times*. There he remained until his death, April 20, 1872; he was buried at Madison. Mr. Hyer's health was always precarious and was one cause of his many changes of location; his career is likewise typical of the uncertainties of the journalistic profession in early Wisconsin. He bore an excellent character and had hosts of warm friends over the state. His obituary is in *Wis. Hist Colls.*, vi, 136-53.

Nathaniel Fisher Hyer, cousin of George A. Hyer, was born March 2, 1807 at Arlington, Vermont. He was educated at the academy at Potsdam, St. Lawrence County, New York. In April, 1829 he began the study of law with the Hon. Edwin Dodge of Gouverneur, New York, and was admitted to the bar at Utica. He began practice at Massena, New York, but after three years he determined, because of ill health, to remove to the West. Accordingly he

came to Milwaukee in 1836. At a mass meeting held during the summer he was nominated judge of probate and justice of the peace, and afterwards appointed to these offices by Governor Dodge. Mr. Hyer also attended the first nominating convention and the first railway mass meeting in Milwaukee, and held as magistrate the first election in Milwaukee. In the course of surveying the country Mr. Hyer explored Rock River, fixing upon and naming the site of Aztalan as his family home; the next spring a number of his relatives emigrated to Wisconsin and began the town of Aztalan. Mr. Hyer married in 1840 at Lake Mills. In 1843 he removed to St. Louis as a surveyor. Returning to Wisconsin in 1845 he bought land in Dunkirk Township, Dane County, which he represented as a Democrat in the convention. Mr. Hyer was postmaster at Aztalan in 1837 and at Dunkirk in 1847. He was interested in internal improvements and served on the standing committee on that subject in the constitutional convention. He assisted also in laying out many of the territorial roads and in surveying for the Milwaukee and Rock River Canal. His health demanded a warmer climate and in 1849 he again removed southward, surveyed in Missouri, in Texas, and in Florida, and at the outbreak of the Civil War was living near New Orleans. His Unionism brought him into conflict with his neighbors, but upon the occupation of the city by federal troops he was made assistant engineer. Later the family removed to Amity Parish and in 1877 returned to Wisconsin and settled at Fort Atkinson. There the pioneer passed his last days peacefully, and there he died September 12, 1885. *Manuscript record.*

Israel Inman Jr. came from Pennsylvania, his family having settled in the Wyoming Valley before the Revolution. Several members of the family came to Wisconsin at an early date. Israel Inman removed West in 1841, settling in Plymouth Township, Rock County, which was his home at the time of his election as a Democrat to the constitutional convention wherein he served on the committee on the legislature. A few years later he joined the California gold seekers and died when crossing the plains. Tenney and Atwood, *Memorial Record*, 104.

Thomas James was born in Barren County, Kentucky, August 30, 1815. In 1833 he sought the lead mines of Illinois, the next year prospected in Wisconsin, and settled in the town of Shullsburg. There he spent the remainder of his life, an honored and respected citizen. In 1839 he married at Dubuque, and brought his bride to his Wisconsin home. He was a farmer, miner, and merchant, held for many years the office of justice of the peace, and was chosen to other local offices. When chosen to the constitutional convention on the Democratic ticket of Iowa County, he was appointed to the committee on counties and towns. His later life was quietly passed at Shullsburg, where he died December 1, 1883. *Manuscript record.*

Edward H. Janssen, who died at Grafton, Washington County, Wisconsin, March 29, 1877, was one of the few German-born members of the convention. He emigrated to America at the age of twenty-four and located in May, 1840, at Mequon, Washington County, where he was the first school-teacher. He soon became a popular leader in his community, and after holding several local

offices was elected to the first constitutional convention, wherein he served on the committee on eminent domain. In 1851 he was elected on the Democratic ticket to the state treasurership and reëlected for a second term. During this latter term the misconduct of an assistant involved Mr. Jänssen in financial difficulties and threw a stigma upon his administration. His personal character was upheld by all who knew him. To meet his obligations he sacrificed all he possessed and accepted a position as teacher at Cedarburg. There he was so popular and trusted that he was elected in 1872 county superintendent of schools, an office which he held until his death. *Wis. Hist. Colls.*, viii, 457-58.

Thomas Jenkins was one of the Southern men in the convention, having been born in March, 1801, in western South Carolina. After some years on the frontier in Alabama and Missouri he came with the mining rush in 1827 to the lead region to prospect near Dodgeville, where he found ore on a small run named Jenkin's Branch. In 1828 he formed a partnership to build a smelter, and soon became a prominent citizen of Dodgeville. During the Black Hawk War Mr. Jenkins joined Dodge's Rangers and was severely wounded in the hip at the battle of Pecatonica. He recovered after a time, and in 1838 was elected to the first territorial legislature that met in Madison. Thereafter he was a member of all the legislative sessions until 1842 with the exception of that for the winter of 1840-41. As a Democratic delegate to the constitutional convention, he served on the committee on the legislature. He was also an assemblyman in the first state legislature of 1848. The next year during the gold rush he migrated to California and there his wife died in 1850. He went in 1864 to prospect in New Mexico and himself died in that region two years later. *Wis. Hist. Colls.*, x, 197-98.

Stoddard Judd, born in Sharon, Connecticut, May 18, 1797, was educated in New York as a physician. In 1819, after graduating from Albany Medical College, he was granted a certificate of practice in Dutchess County, and there lived until he came to Wisconsin. He served in the New York legislatures of 1829, 1835, and 1836. In 1841 he was appointed receiver of the Green Bay land office, and held the position about four years. In 1845 he bought property at Fox Lake, Dodge County, and thereafter made that his home. Dr. Judd was one of the few who were elected to both constitutional conventions. In the first he was chairman of the finance committee; in the second he was on several special committees. He voted usually in the Democratic ranks. He was in the state assembly in 1860 and again in 1865; in 1866-67 he represented his county in the senate. He was much interested in railway development and became president of the La Crosse and Milwaukee Railway, the second to cross the state. He was likewise a prominent Odd Fellow and held several of the highest offices in that organization. He died March 2, 1873 at Fox Lake. Tenney and Atwood, *Memorial Record*, 107-108.

Chauncey Kellogg belonged to a Connecticut family which migrated to Racine County in the early territorial days. His father, Helmont, was a Revolutionary soldier, and died in Wisconsin in 1848. Chauncey Kellogg was born April 23, 1790, at Goshen, Connecticut, the second son in a large family.

He married in 1812 and soon thereafter moved to Pennsylvania. From 1823 to 1837 he lived in Cortland County, New York, and in the spring of the latter year followed his brothers to Racine County, where he bought a farm at Sylvania. There he remained for fifteen years and assisted in building one of the earliest Protestant churches in the territory. When elected to the constitutional convention he was selected for the committee on finance and the public debt, and gave thereon good practical advice. In 1852 Mr. Kellogg removed to Clayton, Winnebago County, and after a few years there settled at Fort Atkinson. His last years were passed with his eldest daughter at Neenah, where he died January 31, 1885 at the age of ninety-four. Mr. Kellogg was a life-long Democrat and lived to see the election of President Cleveland, after many years of Republican presidents. He was a member from childhood of the Methodist Church, and a man of probity and honor. Timothy Hopkins, *The Kelloggs in the Old World and the New* (San Francisco, 1903), 446. *Manuscript record.*

Charles J. Kern was a native of Prussia where he was born in 1805. It is not known at what date he emigrated to America. In the convention he represented Washington County as a Democrat, serving on the committee on corporations. Later he removed to Milwaukee, one of whose districts he represented in the assembly of 1855. The date of his death is not known. Tenney and Atwood, *Memorial Record*, 110.

Asa Kinne was born May 21, 1810, at Homer, Cortland County, New York. He grew up at this place, and afterward lived in Preston City, Connecticut, and in Cattaraugus County, New York. From the latter place he came to Wisconsin, arriving at Milwaukee July 3, 1836. He settled in Oak Creek Township, and was there appointed justice of the peace. He represented this township as a Democrat in the convention wherein he did efficient service on the committee on counties and towns. He was state senator from Milwaukee County in the first two state legislatures. In 1852 Mr. Kinne removed to California and served in its legislatures of 1853 and 1854. Having returned to Wisconsin, he made his home for a time in Green Lake County, whence he came to Madison in 1859; in 1860 he was sergeant at arms of the senate. After this he located at Ripon, held several local offices, and in 1861 enlisted as a private in the Ripon Rifles, although he had in 1858 served as colonel in the state militia. In December, 1861 he was discharged from the army because of ill health. Later he was commissioned quartermaster with the rank of first lieutenant in the First Wisconsin Cavalry and served throughout the war. His later years were spent in Russell, Kansas, where he was a charter member and commander of the Grand Army Post, and where, October 3, 1886, he died. Tenney and Atwood, *Memorial Record*, 110-13; *Manuscript record.*

Joseph Kinney Jr. was born of Scotch ancestry January 29, 1799, in Mount Holly, Rutland County, Vermont. He resided in his native place until he was eighteen years old, studying in district schools and working on a farm. In 1817 he removed to Genesee County, New York, where he spent four years and where in 1820 he married. In 1821 he removed to Cattaraugus County in

the same state, and from there in 1833 to Cuyahoga County, Ohio. In Wisconsin he settled first in Racine County in 1838; thence after four years he removed to a farm near Avon, Rock County. At this place he was justice of the peace, and this was the district from which he was elected as a Democrat to the constitutional convention. Having been delayed in arriving at the convention he was not assigned to any standing committee. He was also in 1851 a member of the state assembly from Lima, Rock County. In 1864 he removed to Pepin County, but after a few years increasing age made him abandon farming and go to live with his children. He died May 5, 1875 at his daughter's home near Sharon, Wisconsin. *Manuscript record.*

Frederick S. Lovell was born November 1, 1815 at Rockingham, Windham County, Vermont. In August, 1835 he graduated from Geneva College and soon thereafter began the study of law with ex-Governor Henry Hubbard of Charleston, New Hampshire. Later he studied with Judge S. K. Strong of New York. After being admitted to the bar he removed in September, 1837 to Kenosha (then Southport) which thereafter became his home. His talents as a lawyer were quickly recognized; he was a leading member of both constitutional conventions in the first of which he was chairman of the committee on executive, legislative, and administrative provisions, and in the second, chairman of the committee on amendments. Whenever he spoke he was listened to with attention, so cogent was his reasoning, so clear his exposition. Mr. Lovell was a member of the territorial council from 1847 until the admission of the state, and in 1857 speaker pro tem of the state assembly. In 1858 he was one of a committee on the revision of the statutes, and the code of 1858 is largely the product of his legal ability. In early life Mr. Lovell had voted as a rule with the Democratic party; he was, however, strongly opposed to slavery and at the outbreak of the Civil War offered his services to the governor and in 1862 was commissioned lieutenant colonel of the Thirty-third Wisconsin, and for nearly three years of the Civil War commanded that regiment. In January, 1865 he was transferred to the Forty-sixth as colonel; upon being mustered out in September of that year he was brevetted brigadier general. Under President Johnson, General Lovell served as postmaster at Kenosha for two years. He was much interested in the beginnings of the Wisconsin Historical Society, of which he was an early member, and one of its vice presidents in 1849 and again in 1852. Morgan L. Martin speaks of him as possessing a "broad, general mind, without a specialty, but overflowing with good sense and apt suggestion." After his resignation from the postmastership in 1868, General Lovell's health gradually failed, and he died May 14, 1878 at his Kenosha home. *Wis. Hist. Colls.*, viii, 469; xi, 409; Wisconsin Bar Association *Proceedings*, 1881, 207.

William Israel Madden, probably from Missouri, came to the lead mines in 1827 with Henry Dodge. He worked the mines about Dodgeville and took up land in that vicinity. During the Black Hawk War he was one of Dodge's Rangers. Later he became his son-in-law, marrying his second daughter, Louisiana. Mr. Madden was elected to the convention as a Democrat from Elk Grove, then in Iowa, now in Lafayette County. In 1850 he went to

California to seek for gold, and died shortly after in Sonoma County. Part of his family accompanied him to California, but his eldest son, Henry Dodge Madden, lived and died in Wisconsin. T. W. Woodward, *Dodge Genealogy* (Chicago, 1904), 60.

James Magone, who represented Milwaukee County in the convention, was born in New York City of Irish parentage, and followed the calling of carpenter and builder. The date of his coming to Wisconsin is not known. He had a very jovial disposition and was given to practical jokes. Although upon none of the standing committees in the constitutional convention he made therein several original and humorous suggestions. He voted with the Democrats. Early in 1847 he was one of a committee to arrange for a celebration at Milwaukee of the anniversary of the battle of New Orleans. Later in that same year he volunteered for the Mexican War, and is thought to have been killed in battle. James S. Buck, *Pioneer History of Milwaukee*, (Milwaukee, 1890), I, 256.

John H. Manahan was the son of Patrick Manahan who was concerned in the Irish rebellion under Robert Emmet. The elder Manahan emigrated to the United States in the early years of the nineteenth century; his son John was born March 29 1811, in New York City. The father was a soldier in the War of 1812. The son grew up in New York and learned the tanner's trade. In 1835 he married at Newark, New Jersey, and brought his bride to Wisconsin, where in 1837 they built a home at Prairie du Chien. There Mr. Manahan became a builder and contractor, and erected some of the first houses built in La Crosse. In 1841 he was on the county board of commissioners and the next year was a member of the territorial legislature. Two years thereafter he removed to Beaver Dam, where he built the first frame building, and where he was postmaster for six years (1844-50). Mr. Manahan represented Beaver Dam in the convention as a Democrat, and was therein assigned to the committee on the franchise. Some years later he went back to his birthplace to reside, and died at his home in that city in 1885. Tenney and Atwood, *Memorial Record*, 116-17.

Moses Meeker was born in 1790 in New Jersey and there received an academic education. In 1817 he removed to Cincinnati and began the manufacture of white lead. He first visited the Illinois-Wisconsin lead mines in 1822; the next year he brought there a colony of over forty persons to begin mining and smelting operations. After the Black Hawk War Mr. Meeker removed to Wisconsin and built a smelter on Blue River. In 1836 he was an unsuccessful candidate for territorial delegate to Congress. From 1842 to 1844 he was a member of the territorial legislature. He represented Mineral Point in the constitutional convention and served on the committee on internal improvements. In politics Mr. Meeker was a Democrat. About 1854 he retired from active life to Meeker's Grove farm near Benton, Lafayette County. There in 1857 he wrote the reminiscences of his early life, which are published in *Wis. Hist. Colls.*, vi, 271-96. Mr. Meeker had no formal knowledge of medicine, but in the emergencies of a new country he practiced considerably and was

usually spoken of as "Doctor." He was a man of varied and wide interests, a corresponding member of the Wisconsin Historical Society, and a member of other learned societies. He died July 7, 1865 at Shullsburg whither he had removed a short time before that date. *Wis. Hist. Colls.*, vi, 271, note.

David L. Mills was born March 7, 1815 at Grafton, Rensselaer County, New York. He grew up in his native town, there studied law, and in 1838 removed to Oneida County, where he remained five years. Having determined to seek a new field for practice Mr. Mills spent a year in Kentucky, but soon thereafter concluded to try his fortune in Wisconsin, where he arrived in June, 1845. He settled at Fulton, Rock County, which as a Democrat he was delegated to represent in the convention, wherein he was appointed to the committee on counties and towns. In 1852 Mr. Mills returned to New York and married. Two years later he and his wife removed their home to Evansville where they passed the remainder of their lives. In 1859-60 Mr. Mills was county register of deeds and in 1850-53 one of the directors of the Milwaukee and Mississippi Railway. He died in July, 1887 at his Evansville home. *Manuscript record.*

James M. Moore, a farmer by occupation, was born in New York in 1815. He was elected on the Democratic ticket to the convention from Brookfield, Waukesha, County. Nothing is known of his later history. Tenney and Atwood, *Memorial Record*, 122.

David Noggle was one of the influential and original thinkers of the first constitutional convention. Although largely self-educated he had a grasp of constitutional principles and of democratic policies that made him invaluable in the debates of the session. He was chairman of the committee on corporations other than banking and municipal, to the duties of which he brought high purpose and practical knowledge. Mr. Noggle's father was a Pennsylvania German; his mother was of Scotch-Irish descent. They were pioneers in Franklin County, Pennsylvania, where David was born October 9, 1809; there he grew up with only the advantages the frontier region could afford. When he was sixteen the family removed to Greenfield, Ohio, and there David struggled to secure an education, working on a farm summers and attending school winters. In 1828 he entered a factory in New York City where he remained four years. At the end of that time he returned to Ohio, and with his brothers' aid built a mill and reëstablished his father's failing fortunes. In 1834 young Noggle married, and two years later he removed his family to a farm in Winnebago County, Illinois. While engaged in farming he studied law, and at the end of two years of indefatigable effort he took the bar examination and was admitted to the state supreme court. The next year (1839) Mr. Noggle sold his farm to begin law practice at Beloit. There in 1840 he became postmaster and held the position for five years. Mr. Noggle was an ardent Democrat and a delegate to the national nominating conventions of 1848 and 1852. After the formation of the Republican party he joined its ranks. In 1850 he removed to Janesville, which he represented in the legislatures of 1854 and 1857. In the latter he was largely instrumental in electing James R. Doolittle to the United States Senate. In 1858 Mr. Noggle was appointed

circuit judge, which office he held with acceptability until 1866 when he declined a reappointment. Thereafter for a short time he lived at Dubuque as attorney for the Chicago, Milwaukee and St. Paul Railway. In 1869 President Grant tendered Mr. Noggle the appointment of chief justice of the territory of Idaho. He accepted this office and remained on the bench until 1874 when failing health rendered retirement imperative. He died July 18, 1878 at his home in Janesville. Wisconsin Bar Association *Proceedings*, 1881, 142–45; *Manuscript record.*

Bostwick O'Connor, whose father was an officer in the Revolution, was born in 1809 at Poughkeepsie, New York. In 1817 the family removed to Cleveland, Ohio, where the father became a Quaker. The son studied to be both a lawyer and a physician. He migrated to Wisconsin in 1842; in 1846 he was living at Port Washington, which he as a Democrat represented in the convention, serving on the judiciary committee. He lived in many parts of Wisconsin, Milwaukee, Walworth, Kenosha, Pepin, Rock, and Wood counties. He died March 5, 1884, at Cascade, Iowa, where he had been station agent for several years. *Manuscript record.*

Daniel Morgan Parkinson, nephew of the Revolutionary general for whom he was named, and son of Peter Parkinson, a Virginia soldier of the Revolution, was born October 20, 1790, in Carter County, Tennessee. His father having died when he was two years of age, his mother brought up her small family as best she could upon the family farm. For a time they lived in White County, Tennessee; in May, 1817 they removed to Madison County, Illinois. Two years later Daniel Parkinson bought a farm in Sangamon County; here he was a militia officer and justice of the peace. In 1827 he started for the lead mines, arriving at Galena July 4, during the excitement over the Winnebago hostilities. Mr. Parkinson joined the militia as sergeant and marched to Prairie du Chien. After the hostilities were over in October of that year Mr. Parkinson went to New Diggings, Wisconsin, and the next year opened a tavern at Mineral Point. During the Black Hawk War he was in active service and has told his experiences therein in *Wis. Hist. Colls.*, ii, 326–64. In 1833 he bought a tavern at Willow Springs, five miles southeast of Mineral Point, which became thereafter his permanent home. He was a member of the territorial legislatures from the first session in 1836 until 1838, and again from 1840 to 1842, and as chairman of the committee on education brought in the first report on the common schools. In the constitutional convention he was appointed on the committee on militia and rendered good service in preparing its provisions. In politics Mr. Parkinson was a Democrat and was elected to represent Lafayette County in the first state assembly. He died at his home at Willow Springs October 1, 1868. *Wis. Hist. Colls.*, iv, 92–93.

Rufus Parks was the descendant of a Massachusetts family prominent in the Revolution. His father, who died in 1800, was seriously wounded while acting as aid to General Benjamin Lincoln in the battle of Stillwater. Rufus, the youngest son of Major Warham Parks, was born at Westfield, Massachusetts, May 21, 1798. He was educated at Philips Andover Academy, and began

life as a merchant in Boston. He afterwards studied and practiced law at Bangor, Maine. Through the active offices of a brother, he was appointed in 1836 receiver of public moneys at the Milwaukee land office, and arrived there in October of that year. In 1842, upon a change of administration, he was deprived of his office. In 1844–45 he was county treasurer for Milwaukee. The latter year he went to live on his farm at Summit, Waukesha County, which district he represented as a Democrat in the convention wherein he served on the committee on amendments. In 1858 Governor Randall appointed Mr. Parks superintendent of public property. In 1867 he was a member of the state assembly. In early life Mr. Parks was a Federalist; later he became a Jacksonian Democrat; upon the founding of the Republican party he gave it his ardent support. Mr. Parks died September 17, 1878, at Summit. *Manuscript record.*

Chatfield H. Parsons was representative from Racine County. Beyond the fact that he was born in 1807 in New York State nothing is known of his career. He was elected to the constitutional convention as a Democrat and served therein on the committee on eminent domain. Tenney and Atwood, *Memorial Record*, 129.

Horace D. Patch was the only member of the convention who died of wounds received in battle during the Civil War. He was born August 7, 1814 in Onondaga County, New York. His father, John, and grandfather, Ezra, were both natives of Connecticut. Horace was educated at Cazenovia Academy and studied and practiced law in Ohio. He was married in the latter state in 1833 and ten years later removed to Whitewater, Wisconsin. In 1845 he took up land in Dodge County; he represented Calamus Township of that county as a Democrat in the convention. Two years later he removed to Beaver Dam, which he represented in the state assembly of 1852. Mr. Patch was clerk of court, treasurer of Beaver Dam, and held other local offices. In 1861 his only son enlisted in the Second Wisconsin; thereupon his father recruited a company for the Sixteenth Infantry, was wounded at the battle of Pittsburg Landing, and died at Corinth, Mississippi, June 22, 1862. *Manuscript record.*

Noah Phelps was born May 21, 1808 at Turin, Lewis County, New York. He was educated for a surveyor and in 1833 secured the position of assistant surveyor in Wisconsin, then a part of Michigan Territory. He laid out the township lines of Green, Dane, and Rock counties. In 1835 he married in New York; three years later he removed to a farm in Green County, Wisconsin. In 1841 he was appointed county surveyor, in 1842 tax collector. In 1845 and 1846 he represented his county in the territorial assembly. In the constitutional convention to which he was elected on the Democratic ticket, Mr. Phelps served with acceptability on the committee on banks and banking. In 1848–50 Mr. Phelps was clerk of the circuit court, and in 1855 justice of the peace. He lived the remainder of his life on a farm near Monroe and there died July 29, 1896. *Manuscript record.*

JOSEPH S. PIERCE, who was born in Vermont in 1797, was elected from Rock County on the Democratic ticket to the convention wherein he was on the committee on municipal corporations. He removed in 1851 to a farm at Darlington, Lafayette County, and five or six years later to Steele County, Minnesota. In this latter place he built a mill, which was destroyed by fire. This misfortune caused the death of Mr. Pierce in 1859. Tenney and Atwood, *Memorial Record*, 131.

THEODORE PRENTISS was the last survivor of the constitutional convention of 1846; he was also one of the few who were members of both conventions. In the first he was chairman of the committee on the acts of Congress for admission of the state; in the second, he was chairman of the committee on schedule and miscellaneous provisions. Mr. Prentiss represented the best type of the New England element in Wisconsin, a cultured, upright, and able man. He was born at Montpelier, Vermont, September 10, 1818, the eighth son of Samuel Prentiss, formerly of Connecticut. The latter was chief justice of Vermont, United States senator, and federal district judge. Theodore Prentiss was educated at the academies of his native town, and in 1838 entered the University of Vermont. His health having failed, he was in the South for a few years, then returned to Vermont to study law in his father's office. In 1844 he was admitted to the bar. He then determined to make a home in Wisconsin, where he arrived in October of that year. The next February he settled at Watertown and became the leader of the Jefferson County bar. He was a Democrat in politics but was never a partisan leader. He was the first mayor of Watertown, was reëlected in 1854, and again in 1871. He was a member of the assembly in 1861, and regent of the University of Wisconsin from that date until 1867. In his later life he abandoned law practice to care for his personal and landed interests. He died August 4, 1906, at his home in Watertown. *Manuscript record.*

ALEXANDER WILLIAMS RANDALL was the only member of the first constitutional convention who afterwards became governor of the state and federal cabinet officer. He was born October 31, 1819 at Ames, Montgomery County, New York, whither his parents had removed from Massachusetts the preceding year. He received a good academic and legal education, and at the age of twenty-one removed to Wisconsin where he made his home at Waukesha, then called Prairieville. This place during the forties was noted for its political ferment, and young Randall, at first a Democrat, quickly became a part of the group prominent in territorial and state politics. During his service in the convention he was a member of the committee on corporations; he also introduced a resolution calling for negro suffrage; thereafter Mr. Randall was considered an abolitionist and his political influence was for a time in abeyance. In 1854 he was elected to the assembly after a severe struggle, and his vote was the one that sent the Free-soil candidate, Charles Durkee, to the United States Senate. The next year Mr. Randall was candidate on the Republican ticket for attorney-general but was defeated. He was a strong partisan of Coles Bashford, and after the latter was seated in the gubernatorial chair in 1856 he appointed Mr. Randall circuit

judge for Milwaukee and Waukesha counties. His term on the bench was brief; in 1857 he was nominated and elected governor and held the office for two terms. During his second term the Civil War began, and Mr. Randall became an efficient and popular war governor. At the close of his second term he desired to enter military service; President Lincoln, however, prevailed on him to accept the appointment of United States minister to the Papal States at Rome. After a few months he resigned that post and became in December, 1862 the first assistant postmaster general, and after 1865 the head of the department. He alienated many Wisconsin friends by his advocacy and support of President Johnson. Thus after his years in Washington he never returned to the state, but died July 26, 1872 at Elmira, New York. He was an early member of the Wisconsin Historical Society, was one of its donors, and its vice president in 1860. R. G. Thwaites, *Civil War Messages and Proclamations of Wisconsin War Governors* (Wisconsin History Commission, 1912), 1-3.

Aaron Rankin was born in New York in 1812. He studied law before migrating to Wisconsin, and though never in active practice in Wisconsin, was known as Judge Rankin, and was a member of the state bar association. He was one of the pioneers of Fort Atkinson, where he settled on a large farm directly west of the city, and made it his permanent home. When elected as a Democrat to the first constitutional convention, Mr. Rankin was appointed on the committee on the executive. In 1852 he was clerk of the village, but held few other political offices. He died at his Fort Atkinson home October 25, 1901. State Bar Association *Report*, 1902-03, 238.

George B. Reed, the eldest son of Seth and Rhoda Finney Reed, was born November 9, 1807 in Middlesex County, Massachusetts. While still a youth he removed with his father's family to Vermont and there was educated at Castleton Academy and Middlebury College, and studied law with S. H. Merrill of Rutland, Vermont. George Reed was one of the earliest American residents of Milwaukee, coming thither in 1834; his father and mother with their family followed in the autumn of 1835. His brothers, Orson, Curtis, and Harrison, were all builders of the commonwealth of Wisconsin; his sisters married Judge Abram D. Smith of the Supreme Court and Alexander Mitchell of Milwaukee. The elder Reed removed about the year 1837 to a large farm at Summit, Waukesha County, and this was the district that George Reed represented as a Democrat in the convention, serving on the committee for the executive provisions. For a time after that gathering he lived at Madison where he was one of the founders of the Wisconsin Historical Society, being chairman of the committee to draft the first constitution and one of the Society's first vice presidents. About the year 1850 he removed to Manitowoc and there was elected county judge. In 1854 he laid out the town of Reedsville, Manitowoc County. In 1866 Mr. Reed was a member of the state senate and was reëlected, serving until 1870. He was one of the promoters and the first president of the Wisconsin Central Railway. He was killed January 10, 1883 at the Newhall House fire in Milwaukee. Wisconsin *Necrology*, iv, 1-4.

PATRICK ROGAN was born September 26, 1808 in Ross Glass, County Down, Ireland. In 1823 he came to America with his father's family, landing in Montreal where they remained two years and where Patrick was employed as office boy for a law firm. In 1825 the Rogan family removed to Jefferson County, New York; and there in 1828 the father died. In 1837 Patrick migrated to Wisconsin, bought land on the west side of Rock River, and settled on the site of Watertown. He took great interest in the growth of his settlement, and was chosen postmaster, an office he held for eight years. In politics Mr. Rogan was a Democrat. In 1844 he built a sawmill, which he ran for fourteen years. He was interested in internal improvements and served in the convention upon the committee on that subject. In his later life he assisted in building plank roads, railroads. and was concerned in all that pertained to the development of his adopted state. He held many local and county offices, and was elected to the state assemblies of 1851, 1853, 1855, and 1866. His home remained at Watertown throughout his life, and there, February 16, 1898 he died in the ninetieth year of his age. *History of Jefferson County* (Chicago, 1879), 623.

EDWARD GEORGE RYAN, who was thirty-five years of age at the time he represented Racine in the convention, showed on that occasion the conspicuous ability and intellectual grasp that nearly thirty years later made him Wisconsin's chief justice. He was born November 13, 1810 at Newcastle House, Enfield, County Meath, Ireland, a gentleman's son, with the expectation of inheriting much wealth. His father, having suffered reverses, left little to his second son but the opportunity for an education. Young Ryan, however, passed a wild youth, and in 1830 emigrated to New York, where by self-support and much application he obtained a legal training, and May 13, 1836 was admitted to the bar. A few weeks previously he had been naturalized, and he now decided to cast his lot with the western country. Arriving in Chicago, he attempted journalism and started a Democratic paper called the *Tribune*. This failed in 1840, and he secured an appointment as prosecuting attorney for the embryo city. In 1842 he removed to Wisconsin and began practice at Racine from which place he was elected to the constitutional convention. Therein he was chairman of the committee on banks and banking, second member of the judiciary committee, and worked with that on education. He frequently contributed to the debates on the floor of the convention. At its close his reputation as a lawyer grew rapidly, and in December, 1848 he removed to Milwaukee and there became one of the leaders of the bar. He directed the prosecution at the impeachment in 1853 of Judge Hubbell, was one of the attorneys in the Barstow-Bashford trial; in these and other legal contests his arguments were vigorous and weighty and carried conviction to his hearers. Mr. Ryan was a life-long Democrat, and in 1862 he issued an address attacking the federal administration on its Civil War policy; because of this address his popularity was for a time obscured. It was only in 1870 that he was elected city attorney for Milwaukee, and not until 1874 that Governor Taylor called him to the supreme bench to take the place of Judge Dixon. Judge Ryan was elected thereto in 1875 and held the office until his death October 19, 1880. He was a very able judicial officer, and his decisions reflect deep learning, fine

literary ability, and noble sentiments. John B. Winslow, *The Story of a Great Court* (Chicago, 1912), 307-38.

Lyman Hunt Seaver was the son of William Seaver, a soldier in the Revolution, who after the war removed to Vermont. There, October 26, 1796, his son, Lyman Hunt, was born in the town of Arlington. In early life the younger Seaver removed to Darien, Genesee County, New York, and there was married April 29, 1829. In 1836 or 1837 he first visited Wisconsin, where a colony from Darien had settled in Walworth County and had given the name of their former home to the new locality. To a farm in this vicinity Mr. Seaver brought his family, consisting of a wife and several children, in 1839. He held several local offices, was supervisor in 1842, 1845, and 1857, and town treasurer in 1853. In the constitutional convention, to which he was chosen as a Democrat, Mr. Seaver was appointed on the committee on schedule. In his later life he removed to the village of Darien and there died June 1, 1864. *History of Walworth County* (Chicago, 1882), 751.

A. Hyatt Smith was an outstanding figure in the convention, particularly in debates on eminent domain and property of which committee he served as chairman. He was born February 5, 1814 in New York City. When he was a boy of eight his father, on account of a severe epidemic of cholera, removed his family to Ulster County; four years later they returned to the city where the father was a merchant, and where he died suddenly in 1827, leaving a considerable family. Hyatt was educated under the care of a relative who destined him for the law. He was admitted to the state bar in 1835 and the next year to the supreme court. His health having suffered from overwork he removed in the autumn of 1842 to Janesville, Wisconsin. He soon purchased the water power and arranged for building the largest flouring mill in the West. In 1847 Governor Dodge appointed Mr. Smith territorial attorney-general. In 1848 he was United States district attorney. In 1853 he was the first mayor of the city of Janesville, and was again elected to that office in 1857. In 1851 and 1853 he was candidate for the nomination for governor on the Democratic ticket, narrowly failing to secure the nomination; he was also Democratic candidate for Congress in 1848. He changed his politics only in 1864 when he gave his vote for Lincoln. It was as a business man that Mr. Smith was best known; he had a large vision of the future of the West and promoted railroads and other means of communication. He was thwarted in some of his plans and sacrificed much of his private property to satisfy his opponents. He also lost heavily in the great fire of Chicago in 1871. His death occurred at his Janesville home October 16, 1892. *United States Biographical Dictionary* (Wisconsin volume, 1877), 442-46.

George Baxter Smith was born at Parma Corners, Monroe County, New York, May 22, 1823. He was thus but twenty-four years old at the time of the convention and its youngest member. Although born in New York, Mr. Smith grew up and was educated in Ohio studying law at Medina in that state. He came to Wisconsin in 1843 with his father's family and settled first at Southport where he was admitted to the bar and to the United

States courts. The next year Mr. Smith went to Ohio to be married and brought his bride to Madison which became their home for life. Mr. Smith's legal acumen was such that in 1846 he was chosen district attorney for Dane County, and held the office for six years. Young as he was Mr. Smith's ability was recognized by his appointment in the constitutional convention as chairman of the committee on the bill of rights, and a member of that on the judiciary. In 1853 he was elected attorney-general of the state for two years, declining reëlection. He was mayor of the city four times (1858-60, 1878); he represented the county in the state assembly in three sessions (1859, 1864, 1869); twice he was Democratic candidate for Congress (1864 and 1872); and once for the United States Senate (1869). Mr. Smith was throughout life an ardent Democrat. He was a man of wide reading and much legal acumen, and was recognized as one of the leaders of the Wisconsin bar. He died in the prime of life September 18, 1879. His obituary and his relation to the Historical Society are discussed in *Wis. Hist. Colls.*, viii, 108-39.

JOHN YATES SMITH was the son of Peter Smith, an Irish soldier, who came to the United States in Burgoyne's army, and who remained in America and married a niece of Ethan Allen. John was born at Evans' Mills in LeRoy, Jefferson County, New York, February 10, 1807. This locality was then a frontier and young John Smith grew up as a pioneer boy does, largely self-educated, adept with hand and eye, capable in many trades. In 1828 he was engaged by some missionaries to come to Green Bay to erect mills and buildings for the Stockbridge Indians. He arrived at Green Bay May 18 of that year and spent the remainder of his life in Wisconsin. In 1835 he speculated in land at Milwaukee; two years later he withdrew to a farm in Waukesha County where he lived three years. In 1842 he visited Madison and was soon engaged as commissioner of public buildings to finish the first capitol. In 1843 his title was changed to that of superintendent of public property. In 1844 he entered upon what proved to be his life work, journalism. He was editor-in-chief for seven years (1844-51) of the *Wisconsin Argus*, the organ of the "Hunker" or conservative Democracy, and by his trenchant pen made and unmade public and political reputations. During that time he was chosen to represent Dane County in the constitutional convention, wherein he was a member of the standing committee on schedule, and of several select committees. In 1851 Mr. Smith retired from journalism until 1861 when he bought the *Argus and Democrat* and edited it with the assistance of his son, Hayden K. Smith. Mr. Smith was one of the founders of the Wisconsin Historical Society, the chairman of the first meeting called for organization, a vice president, and after the reorganization of 1853 a curator until his death. He made several contributions to the Society's *Collections:* one on the "American Indians" published in volume iv, one on "Eleazer Williams" published in volume vi. His death occurred at his residence near Madison, May 5, 1874. *Wis. Hist. Colls.*, vii, 452-59.

SEWALL SMITH was a native of Andover, Vermont, where he was born in 1802. He was a merchant in his native place and postmaster there for ten years. In 1825 he married Nancy Mansur. In 1840 he first visited Wis-

consin and decided to settle at East Troy, Walworth County; in July of the next year he brought his family to this place, which became his permanent home. Mr. Smith was one of the first merchants of East Troy, the first town clerk, both chairman and treasurer for the board of supervisors, and postmaster for several years. In the constitutional convention he voted with the Democrats and served as a quiet, unassuming member of the committee on banks and banking. He died at East Troy, January 23, 1881. *History of Walworth County* (Chicago, 1882), 549.

General William Rudolph Smith was one of Wisconsin's most distinguished scholars and had a large share in founding the Wisconsin Historical Society. He was a native of Pennsylvania, of Scotch ancestry on his father's side, and Swedish on his mother's. His grandfather, Provost William Smith of the College of Pennsylvania, superintended the boy's education. The latter was born at La Trape, Montgomery County, August 31, 1787. His father William Moore Smith, a distinguished poet and statesman, in 1803 visited England on behalf of the claimants under Jay's Treaty. The son accompanied him as private secretary and began his legal studies in the Middle Temple, London. After two years in London young Smith returned to Philadelphia, completed his legal studies, and in 1808 was admitted to the bar. Meanwhile he devoted much time to belles-lettres and was the companion of the contemporary literary men of Philadelphia. After Mr. Smith's marriage in 1809 he began legal practice in Huntingdon, Pennsylvania, where he remained for twenty years. In 1830 he removed to a farm in Bedford County, but continued practicing his profession. In 1837 he was appointed commissioner, jointly with General Henry Dodge, to hold a Chippewa Indian treaty at Fort Snelling; thereafter he wrote his *Observations on Wisconsin*, published in 1838. That same year he removed his family to Mineral Point, which became his permanent home. While a resident of Pennsylvania, General Smith had been honored with many offices and appointments. He had passed through all grades of the militia to that of brigadier general, he had been deputy attorney-general several times, member of the senate and house of the Pennsylvania legislature, and presidential elector in 1836 on the Democratic ticket. In Wisconsin Territory he was appointed adjutant general, holding that office from 1839 to 1852. In 1846 he was elected secretary of the territorial legislative council. Upon his appearance as a delegate in the constitutional convention General Smith was named chairman of the committee on the militia and also a member of the judiciary committee. In 1849-50 he was appointed chief clerk of the state senate; and in 1855 elected attorney-general. In 1854, General Smith was chosen president of the State Historical Society, of which he had been a charter member, and before which he had delivered the first annual address. He was active in the Society's reörganization in 1853, one of its incorporators, and aided in preparing its constitution. He was its president continuously until 1861, when he declined reëlection, and was chosen vice president until his death. General Smith compiled an official *History of Wisconsin* authorized by the state, of which two volumes, the first and third, were published. He wrote many poems and other literary productions and was a member of several learned societies. He was also a Mason and held high office in

the order. He left many descendants both in Pennsylvania and in Wisconsin. His death occurred while absent from home, August 22, 1868, at Quincy, Illinois. *Manuscript record, largely autobiographical.*

Evander M. Soper was a native of Vermont, where he was born in 1810, probably in the town of Bristol, Addison County. About the year 1840 he came to Wisconsin, whither his relative, Orville J. Soper, had previously come to settle at Green Bay. Evander went into Manitowoc County as a mechanic, and became identified with the pioneer life in that region. In 1840 he was tax collector; in 1843 and again in 1848 he was elected to the board of supervisors. In the constitutional convention Mr. Soper voted with the Democrats, and served on the banking committee. His later history is not known. Tenney and Atwood, *Memorial Record*, 164.

Elijah Steele was born November 13, 1817 at Watervliet, New York. Later he married and removed to Oswego in the same state, where he practiced law. He represented Kenosha as a Democrat in the convention wherein he was a member of the committee on revision and adjustment. About the year 1850 he removed to California, where he was a member of the state legislature, and where in 1879 he was elected superior judge of Siskiyou County, and there died in 1883. *Manuscript record.*

Thomas Stockwell was born of Vermont stock at Bainbridge, New York, May 26, 1803. Thomas grew up on a farm and was educated in the common schools. In 1836 he migrated to Michigan, and after two summers there he removed in September, 1837 to what is now Kenosha County, Wisconsin, where he bought land in Salem Township. He resided on this farm the remainder of his life. In early years he was a Democrat, and as such was elected to the constitutional convention. Later he became a Republican in politics, serving for many years as justice of the peace. He died at Salem, August 8, 1886. *Portrait and Biographical Album of Racine and Kenosha Counties* (Chicago, 1892), 586.

Marshall Mason Strong, son of Judge Hezekiah Strong, was born September 3, 1813 at Amherst, Massachusetts. After an academic training he began his college course at Amherst, but his father having removed to Troy, New York, Marshall completed his course at Union College and entered upon the study of law. In 1836, determined to cast in his lot with the new territory of Wisconsin, he removed to the village of Racine, where he became identified with the growth of both the town and the territory. His superior gifts were quickly recognized; in 1839 he was elected to the territorial council and there appointed one of three to revise the territorial laws. In 1844 he again entered the council, and while still a member received word in January, 1846 of the burning of his home at Racine and the loss of his wife and children in the fire. This catastrophe evoked the sympathy of the entire territory. In 1846 Mr. Strong consented to stand for delegate to the constitutional convention, to which he was triumphantly elected. He was one of the ablest members of that body, chairman of the committee on the legislative provisions, and one of that on counties and

towns. Differing from the majority he resigned before the close of the session and used all his efforts to defeat the first constitution. Mr. Strong was a member of the state assembly of 1849, where he was again concerned with the revision of laws. In 1850 Mr. Strong married the second time, and thereafter devoted himself to private practice. A strong antislavery man, Mr. Strong in early life voted with the Democrats; later he became a Free Soiler, and vigorously upheld the government during the Civil War. He was a patron of education and interested in all that promoted the higher life of the community. From its inception in 1849 he was a member of the State Historical Society. He was likewise an incorporator of Racine College and one of its trustees until his death. He passed away March 9, 1864 at his home in Racine. *Manuscript record.*

Moses McCure Strong, son of Judge Moses Strong of Rutland, Vermont, was born at that place May 20, 1810. Young Strong was educated at Castleton grammar school where he spent the years 1822–25; then he matriculated at Middlebury College, Vermont, and remained until 1828. That year he entered the senior class at Dartmouth, graduating in 1829. The next year he began the study of law and passed 1830 and 1831 at the Litchfield, Connecticut, law school. At the close of the course he was admitted to the Connecticut courts, and in September, 1831 to those of Vermont. In 1832 he married Caroline Frances Green of Windsor, Vermont, and began practice in his native state. In 1836 Mr. Strong first visited the West at the instigation of Senator Hubbard of New Hampshire, who employed him to invest land scrip in the new Wisconsin Territory. Mr. Strong decided to settle at Mineral Point, but did not remove his family there until two years later. In January, 1837 he passed the site of Madison on his way from Milwaukee. In February of the same year he came with John Catlin and others to meander the lakes. In 1837 he surveyed fourteen townships in Iowa. The next year he was appointed United States district attorney for Wisconsin, an office he held for three years. In 1841 he was elected to the territorial council and remained a member until 1846, serving twice as president thereof. The first constitution probably owed more to Mr. Strong's influence than to that of any other man. He was chairman of the committee on suffrage and the elective franchise, member of that on the legislature, and discussed on the floor of the convention almost every controverted question. In 1850 Mr. Strong represented Iowa County in the state assembly and was elected speaker of the session. In 1857 he was member for Milwaukee, where he lived from 1855 to 1858 while president of the La Crosse and Milwaukee Railway. Mr. Strong was an able politician and well known in Democratic councils, both state and national. In 1847 he was candidate for territorial delegate on the Democratic ticket, but was defeated by the Whig candidate. He was a member of the State Historical Society from its inception and vice president thereof from 1877 to 1893. He wrote "Indian Wars of Wisconsin" published in *Collections*, viii, 243–86. His *History of Wisconsin Territory* is a useful compilation. Mr. Strong's later years were passed in retirement at his home in Mineral Point, where he died July 20, 1894. *Manuscript record.*

PATRICK TOLAND was born in County Tyrone, Ireland, in 1801. He came to America about the year 1830 and resided several years in Pennsylvania. About the year 1840 he removed to Wisconsin and lived at first in Mequon, Ozaukee County. In 1844 he bought a large tract of level land that was thereafter known as Toland's Prairie in the southwestern portion of Washington County. A considerable number of Irish settlers located in this vicinity and named the township Erin. This was the district Mr. Toland represented as a Democrat in the convention wherein he served on the finance committee. He was a member of the state legislature of 1849. Soon thereafter he was engaged as commissioner and contractor for the Fox-Wisconsin Improvement Company. He died in the spring of 1858. *History of Washington and Ozaukee Counties* (Chicago, 1881), 732.

JOSIAH TOPPING was the son of English immigrants, who settled in 1796 in Montgomery County, New York. There he was born February 16, 1798. The younger Topping grew up at his birthplace, receiving a common school education. In 1820 he married and soon thereafter removed to the neighborhood of Sharon, Schoharie County, New York. In 1840 he settled in the southwestern portion of Walworth County, later called at his request Sharon Township. His brother Thomas settled near him, and the locality became known as Topping's Corners; there the first town meeting was held. Mr. Topping lived to be the oldest settler in his locality and died at his home August 27, 1885. In the convention he voted with the Democrats and served on the militia committee. *Manuscript record.*

PETER HELMER TURNER was born at German Flats (now Ilion), Herkimer County, New York, April 11, 1813. His father, a Baptist minister, gave his son such assistance as he was able in gaining an education. Young Turner was, however, but twelve years of age when he left district school to enter a store in Oswego where he served as clerk until his twentieth year. The following year he was deputy clerk of court, and continued merchandising at Ellisburg, Jefferson County, combining business with milling. It was not until 1840 that he came to Wisconsin and bought land in Genesee, Waukesha County. Two years later he removed to Palmyra, Jefferson County, from which place he was elected as a Democrat to the convention. His consent had not been asked before his nomination, and he was chosen against his desires; his health made attendance brief, and although he was appointed on the committee on schedule he was able to render but little service. In 1848 Mr. Turner was elected to the first state legislature, and in 1850 to the state senate, where he introduced a law simplifying local government that was productive of much good. In 1859 Mr. Turner removed to Madison, where in 1860 he was elected alderman; he was also for a time president of the common council. His efforts were directed to improving the city's finances, and to making its bonds worth their par value. Once more in 1871 Mr. Turner became a pioneer, removing to the Vermillion Valley of Dakota Territory, where a county received his name. The latter years of his life were passed at Sioux City, Iowa, where June 4, 1885 he passed away. *Manuscript Record.*

JOHN HUBBARD TWEEDY was born November 9, 1814 at Danbury, Connecticut. He received a classical education and graduated at Yale College in 1834. He studied law and was admitted to the bar at New Haven. Having determined to make his home in the new West, in October, 1836 Mr. Tweedy settled at Milwaukee, which thereafter became his permanent home, and where he died November 12, 1891. Mr. Tweedy represented the Wisconsin New England element at its best, and his services were much sought by both the new town and the territory. He was appointed receiver of the Milwaukee and Rock River Canal Company in 1839; in 1841-42 he was a member of the territorial council. He was the only Whig member of the constitutional convention from Milwaukee County wherein he was a member of the committee on the legislative provisions. In 1847 he was elected the last territorial delegate to Congress over his Democratic opponent, Moses M. Strong. He was thus the instrument through whom all business passed between the federal and territorial governments antecedent to Wisconsin's admission to statehood. In 1848 he was nominated on the Whig ticket for first state governor, but was defeated by Nelson Dewey. Mr. Tweedy was appointed postmaster at Milwaukee for a few months in 1850 and 1851; in 1852 he was elected to the state assembly. Thereafter he declined public office and devoted himself to private business and philanthropy. He was the Wisconsin member of the Kansas Aid Society and aided in financing the campaign of 1855 that elected a Free-soil United States senator from Wisconsin. During the Civil War Mr. Tweedy performed many patriotic services. His later years were passed in retirement but he was always ready to respond to the needs of his city and state. His character was universally respected, and his contribution to Wisconsin's growth was substantial. *Wisconsin Magazine of History*, ii, 115-16 (September, 1918).

DON ALONZO JOSHUA UPHAM of Milwaukee was chosen president of the convention because of his scholarly abilities and his personal popularity. He was at the time of his election thirty-five years of age, and had lived in Milwaukee and practiced in the territorial courts for nine years. Mr. Upham was of New England stock, his ancestors having settled in Massachusetts in 1680. His father had, however, removed to Vermont, where the subject of this sketch was born May 31, 1809 at Weathersfield, Windsor County. He was educated at Chester Academy, Vermont, and studied in Meriden, New Hampshire, from 1825 to 1827. At the age of sixteen he chose the legal profession as his life work, and in 1827 entered Union College as a sophomore, graduating in 1830 with the highest honors of the class. That autumn he entered the law office of Hon. James Tallmadge of New York City, and after a winter under his instruction Mr. Upham was chosen to a professorship in mathematics at the Delaware State College, continuing meanwhile his law study under Hon. James A. Bayard. In 1834 young Upham was admitted to the bar, and settled in Wilmington, where in 1835 he was chosen prosecuting attorney. He was also concerned with journalism, writing editorials for the *Gazette* of that city and becoming in 1836 part owner of a newspaper. The same year he married a Wilmington lady, and the following summer determined to seek his fortune in the West. He had thought of settling in Chicago, but after traveling about the new settlements decided to

make his home in Milwaukee. Mr. Upham had much adaptability, and soon made himself at home in frontier conditions. He had a keen sense of humor, democratic manners and convictions, and industry and resource in his profession. In 1840 he was elected to the territorial council, serving until February, 1842. The next year he was prosecuting attorney for Milwaukee. During the campaign of 1847 for the adoption of the first constitution Mr. Upham spoke frequently and forcibly in favor of the instrument. In 1849 and 1850 he was mayor of Milwaukee, and in 1851 the unsuccessful Democratic candidate for governor. During Buchanan's administration Mr. Upham was United States attorney and conducted the famous Booth trials. Because of failing health he retired from active practice in 1864. In his later years his avocation was the science of astronomy. He died at his old homestead on Broadway, Milwaukee, July 19, 1877. *Manuscript record.*

James R. Vineyard was one of the few Southerners in the convention. A native of Kentucky, where he was born in 1804, Mr. Vineyard early came to the lead mines of southwestern Wisconsin where he was a well-known miner and smelter. He became a resident of Platteville as early as the spring of 1828, and was very popular with his fellow miners. He had two brothers who were, like himself, prominent mining pioneers; one brother, Miles Vineyard, was for a time Indian agent for the Chippewa. James Vineyard was elected to the territorial council of 1838 and continued a member until February, 1842, when he had an altercation with Charles C. P. Arndt of Green Bay, as the result of which Arndt was shot and killed by Vineyard. The difficulty arose over one of Governor Doty's nominations and was an incident in the quarrel between the legislature and the governor. The case was cited by Charles Dickens in his *American Notes* as an example of the lawless violence of American legislators. Vineyard attempted to resign from the legislative council, but was not permitted to do so, and was expelled therefrom by a vote of eleven to one. He was tried for manslaughter and acquitted by the jury as having acted in self-defense. He himself expressed deep remorse over the ill consequences of his hasty deed of passion. His neighbors continued to place confidence in him, as his election to the constitutional convention proves. He was imbued with Whig tendencies, but in the convention he had but a minor share. In 1849 Mr. Vineyard represented Grant County in the state legislature. In 1850 he migrated to California and was there also a member of the state assembly. He died in that state in 1863. Moses M. Strong, *Territorial History of Wisconsin* (Madison, 1885), 380-85.

Garret Vliet was one of the pioneer surveyors of the territory of Wisconsin who afterwards made it his permanent home. He was born in Sussex County, New Jersey, January 10, 1790. He received a good practical education, the larger share of his boyhood being passed near Wilkesbarre, then a pioneer region of Pennsylvania. He came West in 1818 and first proposed to make his home at St. Louis. Better opportunities for surveying presenting themselves in the Miami region, he settled at Cincinnati, surveyed for the Miami Canal Company, and at one time was keeper of the locks. In 1834 he was surveyor for Hamilton County when Byron Kilbourn and Increase A. Lapham interested him in a project for surveying in Wiscon-

sin. In December of that year he took a contract to survey the township where Milwaukee now stands. This contract he fulfilled in February, 1835, and returned to Cincinnati. Again, in May or June of the same year Mr. Vliet came through to Milwaukee and Green Bay on horseback in company with Byron Kilbourn, who purchased at the Green Bay land office the west side of the site of Milwaukee and engaged Mr. Vliet to lay out a village on his land. In December, 1835, as United States deputy surveyor, Mr. Vliet once more came to Wisconsin Territory with four assistants, one of whom was George P. Delaplaine, and laid out many townships of public land. This survey was completed in July, 1836. In October of the same year Mr. Vliet was surveying in Iowa. August 23, 1837 he left Cincinnati with all his family and goods and opened a farm north of Kilbourntown, between the present Ninth and Sixteenth streets in Milwaukee. There the Vliets lived for many years while the city grew up around them. The present Lapham Park was a portion of the Vliet estate. Mr. Vliet was always ready to serve his adopted state, although he preferred private to public life. He was elected to the constitutional convention as a Democrat, but was not a member of any standing committee. He died at his Milwaukee home August 5, 1877. *Manuscript record.*

SALMOUS WAKELEY was one of the older members of the convention, having been born March 17, 1794 at New Milford, Litchfield County, Connecticut. His ancestors were Welsh, but had for several generations lived in New England. Mr. Wakeley grew up in his native state, receiving the plain education that a farmer boy obtains in a district school. He learned the shoemaker's trade and at one time was a shoe manufacturer. Although having but little formal education, Mr. Wakeley was a very well-read man and a thinker on questions of public import. In 1818 he married and soon thereafter removed to Homer, Cortland County, New York. Later he spent a year or more in Erie County, of the same state, migrating thence about 1825 to Elyria, Ohio. There he held several local offices and was much respected in the community. In 1843 he removed to Wisconsin and settled at the thriving village of Whitewater, which thenceforward became his home. There he was elected on the Democratic ticket to the constitutional convention and served on the committee on the bill of rights. Mr. Wakeley's two sons both became lawyers, the elder becoming a judge at Omaha, Nebraska. The younger son, Charles, was graduated in 1854 with the first class at the state University. Both sons lived for many years in Madison, and their father was in that city as the representative of Whitewater in the assembly in the years 1855 and 1857. He was also chairman of the board of supervisors for Whitewater, and member of the county board. He died January 12, 1867 at the home of his elder son at Madison. *Manuscript record.*

JOSHUA WHITE was a temporary resident of Wisconsin, most of his life being passed in the northern portion of Illinois. He was born February 15, 1814 in Loudoun County, Virginia, and well educated for that time. In 1838 he removed to Illinois and bought land in Ogle County where the village of Stillman Valley now stands. In addition to his farming Mr. White ex-

perimented with stock raising and exporting; in 1841 he built flatboats and sent the produce of his place via the Rock and Mississippi rivers to New Orleans. In 1842 he married and removed to Byron and a few months later to Rockford, where he established a furniture business. In 1844 he opened a general store at the town of White Oak Springs, Lafayette County, Wisconsin, where he also conducted some mining operations. Thence he was elected to the convention as a Whig, having been for some years a member of that party. In the convention he was a member of the committee on finance. In 1848 Mr. White removed to Chicago, but after two years in that city he returned to his Ogle County home and there spent the remainder of his life. He was a member of the Illinois legislature in 1857-58 and town supervisor for seventeen or eighteen years. His home was the seat of a wide hospitality and Mr. White was favorably known throughout all of northern Illinois. Despite his Virginia origin he became a Republican and strongly supported the government during the Civil War. He died July 16, 1890 at his estate in Ogle County. *National Magazine*, April, 1893; *Manuscript record.*

Ninian Edwards Whiteside was the only member of the convention who was a native of Illinois. The Whiteside family was one of the earliest American groups to settle on what was called "The American Bottom," in St. Clair and Madison counties. They came there in the latter part of the eighteenth century, and were defenders of the frontier in the War of 1812. Moses Whiteside was a miner in Wisconsin as early as 1828; his relative, Ninian Whiteside, probably came to the territory somewhat later, since he was not born until 1819. He became popular with his neighbors, and after his service in the convention wherein he served on the committee on the executive, he was chosen a member of the territorial council for its last two sessions. 1847-48. In the latter year he represented Belmont in the first state assembly, was nominated for speaker by the Democrats, and elected to that office. Soon thereafter he sought the gold mines of California, and, so far as is known, never returned to Wisconsin. The date of his death is not known. Tenney and Atwood, *Memorial Record*, 183.

Victor M. Willard had come from New York, where he was born in 1813, to Wisconsin but a short time before the convention in which he represented as a Democrat Waterford, Racine County. In that body he served on the committee on admission of the state. Mr. Willard was elected to the state senate in 1849 for a term of two years. Nothing has been ascertained of his later career. Tenney and Atwood, *Memorial Record*, 183.

Joel F. Wilson was born at Rupert, Bennington County, Vermont, February 18, 1801. He became an expert millwright and in that capacity removed to Hebron, New York, after his marriage in 1824 to Electa Munson. Twenty years later Mr. Wilson brought his family to Wisconsin, where the first year was spent at Waukesha. In 1845 Mr. Wilson moved his family north to Washington County and became one of the earliest settlers of the village of Hartford. From there he was chosen on the Democratic ticket to the constitutional convention, in which he served on the committee on admission of the state. Mr. Wilson went to Hartford in order to build a sawmill;

afterwards he purchased a mill site and built a mill for his own purposes. He was justice of the peace, chairman of Hartford's first board of supervisors, and held several offices of honor and trust. He was highly respected in the community, where he died November 29, 1860. *History of Washington and Ozaukee Counties* (Chicago, 1881), 594.

SUMMARY OF STATISTICS FOR THE FIRST CONSTITUTIONAL CONVENTION

The convention of 1846 was composed of one hundred twenty-four members; of these forty-six were born in New York; twenty-one in Vermont; nine each in Connecticut and Massachusetts. Six were natives of Pennsylvania, three each of New Jersey, Virginia, and Kentucky. South Carolina was the birthplace of two; from Maine, New Hampshire, Rhode Island, Maryland, Tennessee, and Illinois there was one apiece. From Europe there had come seven from Ireland, three each from England and Germany. The native places of three are unknown. Summed up by sections: forty-two were from New England; fifty-five from the Middle States; ten from the South; one from the Middle West; and thirteen from foreign lands. It should be noted that the preponderance from New York and the Middle States is not so great as appears, many of the parents of those born in New York having removed there from New England.

In politics one hundred three of the entire number were elected as Democrats; eighteen were Whigs, and three independents. Farmers were in the majority, forty-nine of the members devoting to agriculture their entire time, while those engaged in other pursuits for the most part also had farms. Twenty-six were lawyers, three physicians, two editors, and one a teacher. Twelve had sought Wisconsin in order to engage in mining; most of these, however, combined this occupation with farming. Eight were surveyors or land agents; three were lumbermen. Six each were either merchants, mechanics, or manufacturers (including millers). One was an Indian agent, and one the founder and manager of a coöperative rural community.

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